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Current Topics.

Workmen's Compensation Cases.

SEVERAL years ago, in the course of some interesting reminiscences, the veteran LORD DUNEDIN recalled an incident in connection with the passage through the House of Commons of the Bill which eventually became the first Workmen's Compensation Act. As introduced, the Bill contained a clause prohibiting an injured workman, who proposed to claim compensation, from employing a paid lawyer. LORD DUNEDIN, then Mr. GRAHAM MURRAY, was in charge of the Bill so far as its application to Scotland was concerned, and, being unsympathetic towards the exclusion of lawyers, he inserted a clause removing the embargo in proceedings north of the Tweed; but the immediate sequel was that—to use his own expression—he "got a wigging from Mr. JOSEPH CHAMBERLAIN for so doing," as, in that stateman's opinion, "there would be but little litigation arising out of the measure." Like many another forecast of what is likely to happen, this, as we all know, was singularly wide of the mark, and is evident in the yearly output of reports of cases involving the consideration of almost every section of the Act—reports whose headnotes fill column after column in the Digest. Only last week the House of Lords was called upon once again to solve the question whether the accidents giving rise to claims for compensation arose out of and in the course of the workmen's employment, and in both appeals this question was answered in the negative. Cases of this kind are largely questions of fact, but they are not, on that account, by any means easy of solution, as we may see by the frequency of divergent views entertained by the various tribunals before which they come—a curious commentary on Mr. CHAMBERLAIN'S prophecy.

The Inheritance (Family Provision) Bill in Committee.

THE committee stage of the Inheritance (Family Provision) Bill was concluded before a Standing Committee of the House of Commons last Friday week. A new clause, which was accepted by the committee, provides, in effect, that the court in considering applications shall have regard to a testator's reasons for disinheriting or not making further provision for a spouse or child, and enables the court to accept such evidence of those reasons as it considers sufficient. By the same clause a statutory declaration by the testator of his reasons is to be accepted as *primâ facie* evidence of the proof of the matters stated therein, whether of his motives or of the facts that influenced him. Mr. H. STRAUSS, who moved this amendment, stated that there were reasons which might make it perfectly proper for a testator to exclude a child from his will and instanced the case of a child who might have been provided for more than once, when it might be unjust to other members of the family if further provision were made for that child. Another new clause, also moved by Mr. STRAUSS will enable the court to vary an order in a downward direction if any new fact is brought to its notice. With regard to the courts before which applications under the new measure should come, it had been suggested that it might be well to exclude such cases from the county court for a limited period, and it may be noted in this connection that the Attorney-General withdrew an amendment which would have removed applications from the county court and undertook to consider the matter before the Report stage.

Ministerial Salaries.

THE Ministers of the Crown Bill was read a second time in the House of Commons on Monday, an amendment to the effect that the House, while in favour of the removal of anomalies in Ministerial salaries provided that the aggregate charge was not increased, was of opinion that a reconsideration of the machinery of government and of the allocation of Ministers to departments should precede legislation of Ministerial remuneration, being defeated by a majority of 92 (228 votes to 136). We have already indicated, and do not propose to repeat, the main changes which the measure involves, but short reference may be made to matters of constitutional and legal importance ventilated in the course of the debate. Perhaps the most interesting of these is the appearance (on the assumption that the Bill passes the remaining stages) in a statute of the term "cabinet" for the first time, of "prime-minister" for the second time, and also the statutory association of the offices of premier and First Lord of the Treasury, thus affording legal recognition of a practice which, with minor interruptions, has obtained for some 100 years.

Due prominence was given to these changes in the speech of the Home Secretary, who moved the second reading of the Bill, and whose words on the first point may be fittingly repeated here. In reference to cl. 3, Sir JOHN SIMON noted that for the first time in the history of the Constitution the word "cabinet" and the phrase "cabinet minister" appeared. Hitherto, he said, there had been no means within the law of ascertaining who was a cabinet minister and who was not. Of course, a member of the cabinet was a member of the Privy Council, and if an individual had not previously been sworn of the Privy Council he would be sworn a member of the Privy Council when he was made a member of the cabinet. It was the solemn pledge by which he bound himself to guard cabinet secrets. Down to the present moment there was no provision in the law which either defined a cabinet minister or explained what he was. In future, the list of cabinet ministers would appear in the *London Gazette*, and the dates between which an individual was a cabinet minister would then be ascertained. Up to the present, all that had happened was that when a Prime Minister accepted from the Sovereign a commission to form a government, he submitted a list of ministers, at the top of which appeared those he professed to have as his cabinet colleagues, and the only way in which the dividing line was drawn was when you opened the paper the next morning and read "the above form the cabinet." It was, therefore, the Home Secretary said, an interesting moment in the historical and constitutional sense when Parliament this year for the first time took upon itself to define what a cabinet minister was.

Purposes of the Bill.

THE same speaker pointed out that the Bill which followed the general lines of the recommendations of the Select Committees of the House of Commons, which reported in 1920 and 1930, had two purposes—the removal of anomalies in regard to the standing of certain administrative officers of State, and the simplification and improvement of the existing arrangements whereby ministers are distributed between the two Houses. On the latter point, he made reference to a statutory provision of the time of Queen Anne, designed to secure that there should not be in the House of Commons too many people who could be regarded as place men receiving pay as Ministers of the Crown. He drew attention to the special position of those sharing the Secretariate of State and to the distinction existing between Secretaries of State and Parliamentary Secretaries and to the difficulties to which the present somewhat complicated position had given rise. In regard to the other purpose of the Bill, attention was drawn to anomalies existing in regard to the salaries of the Secretary of State for Scotland, the Minister of Labour, and the Minister of Agriculture and Fisheries, while the desirability of equalising cabinet salaries was emphasised by reference to a recent statement by the Prime Minister who urged that it was altogether a wrong principle that there should be members of the cabinet receiving a certain sum as their salary and other members receiving 40 per cent. of that sum, in light of the fact that the cabinet was a body of equals. The Prime Minister, Sir JOHN SIMON said, went on to point out that where a ministerial position carries a higher salary, it was naturally regarded as a more important position. That was the way of the world, and it was not in the interest of the best administration of the country that that should continue. Considerations of space forbid anything like an adequate treatment of other arguments advanced in favour of the Bill and demand a still more summary treatment of the views of the opposition, but it may, perhaps, be noted that according to Sir A. SINCLAIR, who agreed that certain ministers were underpaid, the Bill went far beyond the recommendations of the Select Committee with their suggestions for twelve ministers with salaries on the £5,000 level (not seventeen as under the Bill).

The Law Lords.

THE last-named speaker, also, did not see why the law officers, who (as he said) when they left their party, returned to the Bar with enhanced prestige, should receive such large salaries and fees. Mr. GREENWOOD, "speaking as a layman," saw no reason why a lawyer, when he became a member of the Government, should receive fees in addition to his salary, and Mr. V. ADAMS (who thought that, if the salary which the Prime Minister was to receive was a proper one, the maintenance of the Lord Chancellor's salary was most improper), described the remuneration of the law officers as the most scandalous over-payment of all. Mr. LEES-SMITH said that he had learned from inquiries among lawyers that there were very few in the legal profession who would not accept the position of a law officer and increase their salary by so doing, and suggested that the law officers expected a reversion to some highly-paid position like the Mastership of the Rolls, and pointed to the excellent example set by business men who entered the House and did not complain that nothing had been done for them because they did not get directorships. The Prime Minister, who did not think the occasion was one for pronouncement on the merits of the existing system of payment of law officers (who are not mentioned in the Bill), was more comforting. He had, he said, seen a great deal of the law officers in his time, and thought that the House had benefited from the experience of lawyers in the past. A *Times* leader on the Bill urged that so long as the prizes open to the legal profession outside Parliament were so great, the effect of depriving the law officers of their fees would be to make those positions quite unattractive to lawyers of first rank, and with this observation our treatment of the subject may not inappropriately be concluded.

The Cinematograph Films (Animals) Bill.

THE Cinematograph Films (Animals) Bill, the object of which is to prohibit the production or exhibition of films depicting the suffering of animals, was read the second time in the House of Commons last Friday week. While the objects of the Bill are unexceptionable and must indeed evoke the approval of every reasonable person, it may perhaps be suggested that a matter of greater urgency is a more rigorous control of the portrayal of human suffering, or that at least some warning should be required to be given to intending patrons that a film contains scenes of brutality revolting to the normal individual. In regard to the subject of the Bill itself, it was clear from the debate that the authorities are alive to the importance of the effect of scenes portraying cruelty to animals upon the audience as well as to the suffering of the animals themselves, and Mr. LLOYD, Under Secretary, Home Office, alluded to the practice whereby the British Board of Film Censors eliminates as a general rule incidents in which cruelty is portrayed or suggested, notwithstanding that no live animals have been used in the production of the film. Honourable members, he said, would agree that the practice was a sound one. Indeed, the substantial question raised in the debate was the sufficiency of the present law. It was intimated that the Home Office was in substantial agreement with the object of the Bill but felt that the existing powers were sufficient. Cinemas in this country, it was said, could not be opened for public exhibition of films until they had received permission from the local cinematograph licensing authority. One of the conditions attaching to the issue of a licence was that the films proposed to be shown were not likely to be injurious to morality or offensive to public feeling. If the licensing authority served a notice on the owners of an objection to a film, that film could not be shown. Films shown in this country had also to be passed by the British Board of Film Censors. Their decision was not final, but the cases in which films not passed were allowed to be shown were very few. Moreover, the ordinary law relating to cruelty to animals could, it was intimated, be invoked; and, while

there was no power to control the actions of producers in other countries, foreign-produced films relating to animals were subject to the same control of the British Board of Film Censors and the local authorities as the films made in this country. The House of Commons, however, indicated its view that the existing law needs strengthening by passing the Bill on second reading, which was moved by Sir ROBERT GOWER. It was stated that the Bill had been promoted by the Royal Society for the Prevention of Cruelty to Animals, with the support of the National Canine Defence League and other societies.

Solicitors and Divorce Cases.

SIR BOYD MERRIMAN, P., recently made some observations in court concerning solicitors not being ready in the Divorce Court with their cases when they were in the day's list. According to the report in last Saturday's *Times*, the learned President said that all three judges of the Divorce Division were sitting to hear undefended petitions, and in no fewer than seven instances the parties were not ready when their cases were called on. This state of affairs not unnaturally drew from his lordship strong criticism of those solicitors who failed to watch the lists. The practice of the court with cases which were not ready was to send them to the bottom of the term's list, unless the court was prepared to exercise some indulgence. "I had better state publicly," the learned President continued, "that there will be very little mercy for anyone if this sort of thing goes on. We are sitting overtime day after day to keep the lists as little unsatisfactory as they can be, and, if the profession will not co-operate, it makes things very difficult." Such delays are not only detrimental to the interests of clients; they involve a discourtesy to the court which it is unnecessary for us to labour.

Rules and Orders: Motor Vehicles.

THE Motor Vehicles (Construction and Use) Regulations, 1931, and the amending regulations added from time to time, are being replaced by a new series of regulations which will come into force on 31st May. Some of the principal new requirements may be briefly indicated. One of the most important is that which empowers police constables and Ministry of Transport certifying officers and vehicle examiners to test the brakes, steering gear and silencer of a motor vehicle or trailer on a road, or (subject to the consent of the owner of the premises) on any premises where the vehicle is. A police constable is required to be in uniform, and the certifying officer or vehicle examiner must produce his authority if required. With the exception of invalid carriages and vehicles limited to a speed of twelve miles an hour or less, all motor vehicles registered after 1st October, 1937, will be required to carry an instrument (not necessarily a speedometer) to indicate to the driver, within a 10 per cent. margin of error, when he is driving at speed greater than that allowed by law, or, where a vehicle is not subject to a speed limit by virtue of its class, at a speed greater than thirty miles an hour. Another compulsory item of equipment after 1st October, 1937, will be an automatic windscreen wiper, but this will not apply to cases where the driver, by opening the windscreen or otherwise, can obtain an adequate view. On the other hand, the use of a siren as a warning instrument is to be restricted to police, fire brigade, or salvage corps vehicles, while the use of a gong or bell is to be restricted to such vehicles and ambulances, while the existing ban on the use of warning instruments between 11.30 p.m. and 7 a.m. is to be extended to all built-up areas. Moreover, "cut-outs" and silencers altered so that the noise of the vehicles are increased and, on vehicles registered after 1st October, mascots liable to cause injury to persons with whom the vehicle may collide, are alike prohibited. From 1st October, 1937, all new vehicles, and from 1st October, 1942, all vehicles, with servo-braking systems embodying a vacuum or pressure reservoir will have to be provided with a device to warn the driver of any impending failure of the vacuum or reservoir, while—except as regards locomotives and certain steam vehicles—from 1st April, 1938, in the case of new vehicles, and from 1st October, 1943, in the case of existing vehicles, no braking system may be rendered ineffective by the non-rotation of the engine. The foregoing are selected as the new requirements of most general interest, and readers must be referred to the regulations themselves for many others of which considerations of space preclude mention here.

Recent Decisions.

IN *Beresford* v. *Royal Insurance Co. Ltd.* (*The Times*, 8th April), the Court of Appeal dismissed a cross-appeal by an administratrix claiming policy moneys on insurance taken out by one who committed suicide, and held that the summing up by SWIFT, J., on the issue of the sanity of the deceased, alleged by the respondent to contain misdirections, was unobjectionable. The summing up was described by LORD WRIGHT, M.R., as very careful and fair, and the statements complained of meant no more than that the jury were to start with the view that, *prima facie*, the assured was sane and responsible for his actions, and that it was for the person suggesting the contrary to displace that presumption. The decision of SWIFT, J., was reversed on another ground, as indicated in a recent issue (81 SOL. J. 267).

In *Hague B. H.* v. *Hague S. K.* (*The Times*, 8th April), a Divisional Court of the Probate, Divorce and Admiralty Division reversed a decision of magistrates who confirmed, with conditions, a provisional maintenance order made by the Johannesburg (South Africa) magistrates in favour of a wife. LANGTON, J., referred to *Peagram* v. *Peagram* [1926] 2 K.B. 165, and *Re Wheat* [1932] 2 K.B. 716, and stated that in his judgment s. 4 (7) of the Maintenance Orders (Facilities for Enforcement) Act, 1920, conferred jurisdiction on the Probate and Divorce Division. The learned judge intimated in light of the cases that the jurisdiction of that Division and of the King's Bench Division might quite properly exist side by side. The appeal was allowed on the ground that there was no desertion by the husband and no failure to maintain. The reversal of the decision, it was stated, cast no reflection on the magistrates who confirmed the order.

In *Knowles* v. *Southern Rly. Co.* (*The Times*, 9th April), the House of Lords upheld a decision of the Court of Appeal to the effect that the widow of a carter who died as a result of an accident when mounting to the seat of his van was not entitled to compensation under the Workmen's Compensation Act, 1925. At the time of the accident the deceased was working overtime and was returning from a public house where, contrary to the company's regulations, he had had a glass of beer. It was held on the facts of the case that the accident happened before the employment, so interrupted, had been resumed, and, the act being one expressly forbidden by the terms of the employment was not "done by the workman for the purposes of and in connection with his employer's trade or business" within the meaning of s. 1 (2) of the Act. The Court of Appeal had reversed a decision of the county court judge who awarded the widow £375 compensation.

In *Alderman* v. *Great Western Rly. Co.* (*The Times*, 9th April), the House of Lords upheld a decision of the Court of Appeal affirming a decision of a county court judge to the effect that a travelling ticket inspector who sustained injuries by slipping in a public street in Swansea while on his way to sign on for duty was not entitled to compensation at the hands of the railway company. The appellant's duty involved his leaving Oxford, where he lived, and travelling to Swansea *via* Paddington on one day, and returning from Swansea to Oxford *via* Paddington on the following day. The company provided no hostel or lodging at Swansea and therefore, it was held, while on his way from his lodging to the station, he was for all purposes in the same position as an ordinary member of the public using the streets in transit to his employers' premises.

Appropriation of Payments.

"An undisclosed intention in the mind of the debtor is not sufficient to support an appropriation."

This dictum of Greene, L.J., in *Leeson* v. *Leeson* [1936] 2 K.B. 156 (at p. 163), 80 Sol. J. 424, will prove a sound guide to the legal advisors of a debtor who is seeking to appropriate a particular payment to a particular debt.

The general rule is that:—

"the party who pays money has a right to apply that payment as he thinks fit. If there are several debts due from him, he has a right to say to which of those debts the payment shall be applied. If he does not make a specific application at the time of payment, then the right of application generally devolves on the party who receives the money."

(*Per* Bayley, J., in *Simson* v. *Ingham* (1823), 2 B. & C. 65, at p. 72.)

An appropriation, however, may also be *inferred* from the circumstances: Leake, "Principles of the Law of Contracts," (1931), 8th ed., p. 706. Thus, if A, owing B two debts, one of £50 and the other of £75, sends him one sum of £50, it is presumed, from the circumstances, that this sum is in respect of a debt of that exact amount. This would also be the case if A sent that sum to B in answer to an application by B for that specific debt.

Where an appropriation is not express, and where it cannot be inferred from the circumstances, then, and then only, is it for the creditor to appropriate the payment to a particular debt.

Said Tindal, C.J., in *Mills* v. *Fowkes* (1839), 5 Bingh, N.C. 455 (at p. 461):—

"... the debtor may, in the first instance, appropriate the payment, *solvitur in modum solventis*; if he omit to do so, the creditor may make the appropriation, *recipitur in modum recipientis*; but if neither make any appropriation, the law appropriates the payment to the earlier debt."

But an "undisclosed intention" by the debtor to appropriate a payment to a particular debt is not a circumstance from which appropriation may be inferred.

In *Leeson* v. *Leeson*, *supra*, Mrs. L., the plaintiff, was formerly the wife of L. Before 1933 the parties had separated and L. verbally agreed to pay her £3 a week for the maintenance of herself and their child, Barry. In 1933 he agreed in writing to pay her a sum of £300 by weekly instalments of £2, in respect of a house which belonged jointly to them both. He thereupon continued to send his wife £5 a week, viz., £3 for herself and the child and £2 in respect of the house.

In 1935, she obtained a divorce from her husband and subsequently received from him the sum of £3 only. She sued to recover the balance due under the written agreement. L. said that he had appropriated the £3 in this way; as to £2, in respect of the weekly instalment due under the house agreement, and as to £1, for the maintenance of the child.

The action was tried at Rugby County Court. L. said that together with his first payment of £3 he had enclosed a slip of paper with the words "This is for the house and Barry. Billy." The plaintiff denied that such a slip was enclosed. The defendant said, in evidence, that he was advised by a distinguished divorce counsel that after the decree *nisi* he was no longer liable to make the weekly payments due under the separation agreement. It may, for this reason, be stated that he had enclosed the slip. No notice to produce the slip, however, was given to Mrs. L., nor did she produce it; but the judge admitted secondary evidence.

The judge said he believed both parties. His view was that Mrs. L. must have torn up the envelope without noticing the slip, because previously she had always received her weekly cheque without any communication enclosed. He accordingly held that L. had appropriated the payments as he had indicated on the slip. Even without the slip, in his opinion, the reasonable inference was that the defendant had appropriated the payments. But the judge (for his part) did not think that the verbal agreement to pay maintenance was ended by the decree *nisi*.

Mrs. L. appealed.

It was subsequently admitted on behalf of the husband that secondary evidence of the slip was inadmissible, and that he had allocated the payment in a way that did not come to the creditor's knowledge. For the appellant it was said that an appropriation must be brought to the *express or implied* notice of the creditor. Further, the sum of £3 was the exact amount due under the verbal agreement for maintenance and this raised a presumption that for maintenance it should be applied.

The Court of Appeal (Greer, Greene, L.JJ., Talbot, J.) entered judgment for the plaintiff, the wife.

Greer, L.J., said that since no notice to produce the slip had been given to the plaintiff, the judge was wrong in receiving evidence of it. On the question of appropriation, the learned Lord Justice said:—

"To constitute appropriation there must be much more than an intention. The appropriation by a debtor must take the form of a communication, express or implied, of his intention to his creditor so that the creditor may know that his right of appropriation as creditor cannot arise" (at p. 161).

Further, it was a sound argument against the defendant that his payment of £3 weekly was the exact amount due under the maintenance agreement. The learned Lord Justice found it unsatisfactory for the county court judge to believe both parties. "That was most unsatisfactory, for the evidence they had given was contradictory." The case would have been sent back for a new trial, had the court been unable to give judgment for the plaintiff.

Greene, L.J., explained what is meant by *inferring* an appropriation:—

"When it is said that there need not be an express appropriation of a payment, but that the appropriation can be inferred, that does not mean that appropriation of a payment can be inferred from some undisclosed intention in the mind of the debtor. It is to be inferred from the circumstances of the case *as known to both parties*. [The italics are the writer's.] Any other view might lead to injustice, as the creditor's right to appropriate a payment would be defeated" (at pp. 162, 163).

The key sentence here is the inference from "the circumstances" i.e., not those known by one party to the exclusion of the other, but those known by both parties.

Talbot, J., agreed.

The case of *Parker* v. *Guinness* (1910), 27 T.L.R. 129, had been relied upon for the husband, but there the inference of appropriation was clear from the circumstances.

Three actions were consolidated; two, against A; the third, against A and B, his surety. The creditor claimed £12,000 odd, principal and interest on promissory notes granted by both parties. A, in an affidavit for leave to defend, swore that he had £4,474 only, on all the notes, and claimed an inquiry into the sums charged for interest. Lush, J., held that the true inference was an appropriation by A of £4,474 to the principal debt due on *all* the notes, including those on which A and B were being jointly sued.

"His undisclosed intention so to do (*sc.* to note as appropriations) would, of course, not benefit him. *It is what he did in fact, and not what he meant to do that is to be regarded* . . . [The italics are the writer's.] "Now an appropriation by the debtor may be inferred from a variety of circumstances. Each case must, in my opinion, be considered on its own peculiar facts . . . The conduct of the parties, coupled with the nature of the transaction, may be sufficient to lead to the inference I have mentioned" (at p. 131).

Note on Credibility of Witnesses.

A point of interest, quite apart from appropriation, arises incidentally from the view of Greer, L.J., that, since the evidence they gave was contradictory, it was "most unsatisfactory" for the judge to have believed both parties (at p. 163).

If the learned lord justice is stating a general proposition of universal validity, that where the evidence is contradictory, it is unsatisfactory to believe both sides, it is respectfully submitted that such a proposition is untenable. A judge sees both parties and their demeanour, and hears and tests the voice of their evidence. An appellate court can read the transcript only, without the advantage of marking the *nuances* of the evidence as it slowly unfolds. In this case, the county court judge, upon his view of appropriation, was wrong in law, and judgment, if one may respectfully say so, was properly entered for the plaintiff. But, even though the evidence was contradictory, may not the trial judge have been right on the facts by his estimate of credibility, in believing both versions? It would appear that the explanation given by the county court judge was quite a possible one. If the wife had not received the slip, it did not follow that the husband had not sent it. A tribunal may well believe A, and yet B, his opponent, who tells a different story, may not necessarily be stating what is in fact untrue. An appellate tribunal will generally defer to the conclusions which the trial judge has formed as to which witnesses are credible, and which are not.

See the headnote in *Powell* v. *Streatham Manor Nursing Home* [1935] A.C. 243 for this statement. See also, in full, the speech of fine discrimination delivered by Lord Wright, at p. 258, and particularly pp. 265-268 for the principles by which an appellate court is guided in examining the findings of a trial judge.

Company Law and Practice.

The Winding-up of a Dissolved Foreign Company.

I HAVE at various times had occasion to consider, in these columns, the cases which have come before the court with reference to the dissolution of the Russian banks, but I do not think that I have previously mentioned the decision of the House of Lords in *Russian and English Bank* v. *Baring Brothers & Co. Ltd.* [1936] A.C. 405. The history of the proceedings in this country in connection with the bank's affairs is a little complicated, but the following summary of the facts will, I think, suffice for our purposes.

The bank was incorporated by Russian law and had a branch office in London. It was dissolved in Russia in 1918, and consequently had, for the purposes of English law, ceased to exist as a legal entity; its London branch carried on business until 1920. In 1932 a compulsory order for the winding up of the company was made under the provisions of s. 338 (1) (*d*) of the Companies Act, 1929, which provides that any unregistered company (a phrase which includes a foreign company) may be wound up under the Act if, *inter alia*, the company is dissolved. I should here mention the provisions of s. 338 (2) of the Act, which are as follows: "Where a company incorporated outside Great Britain which has been carrying on business in Great Britain ceases to carry on business in Great Britain, it may be wound up as an unregistered company . . . notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated." That sub-section appears to be directed at the Russian banks, which, having carried on business in this country, have been dissolved in Russia without any settlement of their affairs here. The winding up order in the present case was not made under this subsection which, unlike s. 338 (1), is a new provision of the 1929 Act, on the ground that it did not extend to a company which had ceased to carry on business in Great Britain before the commencement of the 1929 Act. It may be noted, however, that in the House of Lords (1936 A.C., at pp. 416, 424), where the point did not, however, arise for decision, Lord Blanesburgh and Lord Atkin seemed to think that the sub-section is not confined to companies which had ceased to carry on business in this country after the commencement of the Act.

Be that as it may, the compulsory order was made; and subsequently the liquidator, having duly obtained the leave of the court, and with the authority of the committee of inspection, instructed his solicitors to issue in the name of the bank, as plaintiff, a writ claiming payment of certain sums alleged to be due to the bank. The defendants to this action took out a summons asking for an order staying all proceedings on the ground that the bank was a dissolved corporation, and such an order was made by Clauson, J., and his decision was upheld by the Court of Appeal. The bank appealed to the House of Lords.

I think there was no dispute that the company having been dissolved by the law of its country of origin could not sue in the courts of this country, unless it were so enabled by the provisions of the Companies Act, 1929. We have seen that s. 338 of that Act gives the court jurisdiction to wind up such a company as an unregistered company in spite of and, indeed, on the ground of, its existing dissolution; and that section goes on to provide that "all the provisions of this Act with respect to winding-up shall apply to an unregistered company." Further, s. 342 provides that "the Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act: Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this part of this Act." Turning to the provisions of the Act with respect to winding up, we find in s. 191 that "the liquidator in a winding up by the Court shall have power, with the sanction either of the Court or of the committee of inspection, to bring or defend any action or other legal proceeding in the name and on behalf of the company."

The question to be decided then was this: did these provisions of the Companies Act, 1929, authorise the bringing of an action in the name of a company which, apart from those provisions, had no juridical existence? For it will be borne in mind that there is no express provision of the Act bringing back to life an unregistered company which has been dissolved. The majority of the lords answered this question in the affirmative: Lord Blanesburgh pointed out that in the case of a company falling within the provisions of s. 338 (2) of the Act, the company, although non-existent in the country of its incorporation, is not only a company which may be wound up but, on an order for winding-up, it is by s. 342 of the Act to be deemed to be a company under the Act: so that, in his view the legislature had said that in such a case the dissolution should be ignored. "All that with reference to the dissolution of a foreign corporation the legislature can effectively say is that it shall be ignored in a winding-up of the company under its own Act. And it is ignored for the reason that any dissolution without a winding-up previously completed and with creditors unpaid is an offence, an injustice to those creditors if it be permitted to defeat their claims against the company."

Lord Atkin arrived at the same result, it being in his view a necessary implication from the provision that a dissolved foreign corporation may be wound up in accordance with the provisions of the Companies Act, that the dissolved company is to be wound up as though it had not been dissolved, and therefore continued in existence. He found nothing abnormal

in such a provision. "The municipal law of this country, as of other countries, accepts the principle of international law that countries ordinarily accept the existence of juristic persons brought into being or recognised as existing in their country of origin. Similarly they accept the destruction or cessation of such a juristic personality under the law of its country of origin. But if the municipal law choose it may in defined conditions refuse to accept or may accept only under conditions either the creation or destruction of a foreign juristic person: whether it has done so is for the municipal courts to decide, but if it has, then the municipal court must accept the situation. I see nothing incongruous in the legislature saying in effect, we accept the existence of a foreign corporation coming to trade in this country; we shall only impose a condition of registration. But if the corporation does trade here, acquires assets here and incurs debts here, we shall not accept its dissolution abroad without a stipulation that if desirable it may be wound up here so that its assets here shall be distributed among its creditors . . . and for the purposes of the winding-up it shall be deemed not to have been dissolved; for that event would defeat our municipal provisions for winding-up a corporation."

Lord Macmillan found in ss. 338 and 191 direct legislative warrant for the bringing of the action in the name of the dissolved company. It appears, however, that he did not find it necessary, in order to arrive at this conclusion, to hold that the relevant sections of the Act provided, either expressly or by implication, that the dissolution in such a case should be ignored. As he happily put it, "a legal system which for so long admitted as suitors in its courts those wholly fictitious persons John Doe and Richard Roe, who were in much worse case than the Russian and English Bank, for they never existed at all, might be expected to suffer with equanimity the apparition, at the bidding of the Legislature, of a dissolved company as a plaintiff."

Lord Russell and Lord Maugham dissented from the opinion of the majority; and, inasmuch as Clauson, J., and the Court of Appeal had taken the same view as the minority in the House of Lords, it will be seen that there was a strong body of judicial opinion in favour of the view that the dissolved foreign corporation could not sue as plaintiff in an action in the courts of this country. According to this view, the corporation was non-existent and there was nothing in the Act to authorise a non-existent person to sue: s. 191 of the Act giving a liquidator power to bring or defend an action in the name of a company only gave that power in respect of a company still in juridical existence. It was suggested that in the present case the provisions of s. 190 of the Act afforded a means of procedure to the liquidator, viz., he could apply to the court for an order that the property of the company should vest in him and might "bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property." But, as Lord Atkin pointed out, if the dissolved company remained dissolved for the purposes of and despite the winding up, there never could be any property of the company to be vested in the liquidator under this section; nor, indeed, could there ever be any assets over which the liquidator could exercise any powers at all, or any debts of the company for him to pay; for a non-existent person can have neither property nor debtors.

It may be that circumstances calling for the application of this decision will not be of frequent occurrence; but I think that the opinions of the learned lords will be found to be of very great interest and not only by company lawyers; the case seems to me an interesting modern example of the use of legal fiction. Parliament says that for certain purposes a non-existent legal person, over whose birth and death the law of this country has no control, shall nevertheless continue to exist. The whole matter is no doubt highly artificial, but is not, I think, the less interesting because of that.

A Conveyancer's Diary.

Recovery of Title Deeds by Mortgagor acquiring Title under the Statutes of Limitation.

THE recent case of *Lewis* v. *Plunket* (1937) 81 SOL. J. 179, raises an interesting question regarding the right of a mortgagor to recover the title deeds from the mortgagee when the interest of the latter has been extinguished by the operation of the Statutes of Limitation, and once more calls attention to the right generally of an owner of land to the custody of the muniments and to enforce the delivery of them by any person in whose hands they may be.

In an early case, which has often been cited in this connection, *Lord Buckhurst's Case* (1598), 1 Moore 488, the law was considered as between a feoffor and a feoffee. It was held, in effect, that the feoffee was entitled to the deeds, although not mentioned, unless there was a general warranty of the land to the feoffee and his heirs. The reason for the exception was stated to be "because the agreement of the parties to the feoffment appears to be such that the feoffee would rely upon his warranty of the land, and that the feoffor and his heirs should make continual defence thereof for the feoffee and his heirs; and when no grant is made of the deeds to the feoffee, it is to be understood that they shall remain with him who is to defend the land, and that is the feoffor and his heirs."

Warranties are, of course, obsolete, but it would seem that the *ratio decidendi* of the judgment in *Lord Buckhurst's Case* extends to cover all cases where the feoffor or grantor has some good reason for keeping the deeds, as where he had a legal interest in other lands to which the deeds referred.

In *Strode* v. *Blackburne* (1796), 3 Ves. 221, the law was stated by Lord Loughborough, L.C., to be as follows: "I have stated that the title deeds are incident to the possession. *Primâ facie*, a person in possession of the estate under a title that gives a freehold interest at the least, has a right to the custody of them. They are not considered in law as chattels, but follow and are incident to the estate in the hands of the owner; at law they belong to the right owner, and do not go to the executor."

That a legal owner of a freehold estate in possession might recover the deeds by an action of detinue appears from *Lightfoot* v. *Keane* (1836), 1 M. & W. 745; or he might sustain an action of trover: *Harrington* v. *Price* (1832), 3 B. & A. 170; or file a bill in equity: *Garner* v. *Hannyngton* (1856), 22 Beav. 627.

By s. 2 of the Vendor and Purchaser Act, 1874, it is provided that where a vendor retains any part of an estate to which the documents of title relate, he shall be entitled to retain such documents. In *Re Williams and Duchess of Newcastle's Contract* [1897] 2 Ch. 144, it was held, by North, J., that the section only applied to lands and that when a mortgage comprised both lands and policies, and the lands were sold but the policies remained subject to the mortgage, the purchaser was entitled to have the mortgage deed delivered to him.

It would seem, therefore, that, apart from recent legislation to which I will refer, a vendor of a legal estate of freehold must hand over the title deeds which do not relate to other lands, although there might be other good reasons for his desiring to retain them.

By s. 45 of the L.P.A., 1925, s. 45 (9), it is provided that a vendor shall be entitled to retain documents where—

(*a*) he retains any part of the land to which the documents relate; or

(*b*) the document consists of a trust instrument or other instrument creating a trust which is still subsisting or an instrument relating to the appointment of a trustee of a subsisting trust.

Like s. 2 of the Vendor and Purchaser Act, 1874 (which it replaces), this enactment only applies between vendor and purchaser.

The authorities were discussed fully by Maugham, J., in *Clayton* v. *Clayton* (1890), 2 Ch. 12.

The facts in that case were that a testator died, having, by his will, bequeathed settled legacies and having thereby also, by legal limitations, settled freeholds which, in the events which happened, became vested free from incumbrances and charges in the plaintiff. From time to time there had been appointments of new trustees of the testator's will for the purposes of the Settled Land Acts and other purposes, including three by deeds of 1902, 1904 and 1915. In 1924 the plaintiff had been appointed Settled Land Act trustee of the testator's will jointly with the three trustees thereof, the appointment being limited to the freeholds. At the date when the freeholds became vested absolutely in the plaintiff the trusts of some of the settled legacies were still on foot.

The action was by the plaintiff claiming the custody of the appointments of 1902, 1904 and 1915.

Maugham, J., held (i) that absolute ownership of land does not necessarily carry with it the right to title deeds; and (ii) that trustees who have duties to perform in relation to their trusts may retain title deeds lawfully in their possession as trustees.

The action consequently failed.

In the course of his judgment the learned judge, after reviewing the authorities, said: "In my opinion the right of the estate owner to the title deeds of his estate is not so absolute as the plaintiff contends. It is true that if no one else has any legal interest in the subjects dealt with in a title deed, the estate owner is generally entitled to recover such a deed from a stranger. But there are, as appears from the authorities, numerous exceptions." His lordship then referred to the decision in *Lord Buckhurst's Case*, and continued: "If this be true in the case of a grantor it must *a fortiori* be true in the case of trustees who have lawfully become possessed of deeds not directly relating to land and claimed by an estate owner only because as a matter of evidence it may be necessary for him to give inspection of the deeds to a purchaser."

It appears that this decision is in direct conflict with that in *Re Williams and Duchess of Newcastle's Contract*, which the learned judge dismissed with the observation that it had not escaped criticism, and he referred to "Williams on Personal Property," 12th ed., p. 11. The decision is also criticised in "Williams on Real Property," 4th ed., p. 696. Despite those criticisms the decision has not been overruled.

Now to return to the recent case of *Lewis* v. *Plunket*.

In March, 1921, the plaintiff conveyed certain property to the defendant by way of mortgage for securing the payment to the defendant of the principal sum of £1,000, with interest thereon at 6 per cent. per annum. In November, 1921, the plaintiff paid a sum for interest, but that was the only payment for interest which was made, and there was no acknowledgment of the debt to take the case out of the Statutes of Limitation. The defendant alleged that a letter written to her by the plaintiff in July, 1936, claiming the deeds was such an acknowledgemnt, but it appears that that contention failed. The plaintiff afterwards commenced the action for recovery of the mortgage and all the other title deeds relating to the property in the possession or control of the defendant.

The contention for the defendant apparently was that the plaintiff had not the legal estate in the land and therefore was not in a position to recover the documents.

Farwell, J., held that the plaintiff was entitled to delivery of the title deeds to her. The learned judge said: "Where a person is in sole possession of property with a title, both beneficial and legal, which is good against all the world and indefeasible in law and in equity, *primâ facie* that person is entitled to possession of the title deeds of the property." His lordship then referred to the decision in *Clayton* v. *Clayton*, and continued: "It was said on behalf of the defendant in this case that no claim to recover the title deeds could succeed, unless it were shown that the legal estate is in the plaintiff. In my judgment, the legal estate is in the person who is in possession of the property—namely, the plaintiff. It is quite true that the effect of the Statutes of Limitation is not to convey any estate or interest from the person in whom it was originally vested to the trespasser or other person who acquired a title by virtue of the statutes, but, on the other hand, the estate, whether it was legal or equitable or both, of the original mortgagee or the original owner was put an end to once and for all by those statutes. The defendant has ceased for some time to have any interest in the estate. The plaintiff alone has any right, legal or equitable, to the estate and she is entitled to possession of the title deeds."

A mortgagee, therefore, who has allowed a mortgagor to acquire a title under the Statutes of Limitation must be prepared, when called upon, to hand over the deeds to the mortgagor, and it would appear may not in the meantime part with them.

Landlord and Tenant Notebook.

Tenancy Evidenced by Conduct other than Payment of Rent.

THE recognition of a tenancy by either party, when the requisite documentary evidence is not forthcoming, is usually evidenced by payment and acceptance of rent which constitutes a tenancy from year to year. But this is not the only way. The various acts of a landlord by which waiver of forfeiture can be brought about are well known to include acts other than the acceptance of rent. When either an occupier or an owner of land seeks to establish the existence of the relationship of landlord and tenant, if an agreement for a lease has not been executed or when the occupier holds over at the conclusion of a tenancy, the principle applicable is similar. The law favours constructive reading of a situation, and is loath to find that an occupier is a trespasser.

Some of the earlier authorities sometimes cited are not wholly satisfactory. The reports of *Clayton* v. *Blakey* (1798), 8 T.R. 3 and *Doe d. Thomas* v. *Field* (1834), 2 Dowl. P.C. 542, leave nothing to be desired from the point of view of tersity, but the latter falls short when it comes to cogency. The former was an action for double rent. An agreement for a lease for twenty-one years had been verbally negotiated. An action for double rent can be brought only when a tenant has given a valid notice to quit or to determine, and then holds over (Distress for Rent Act, 1737, s. 18), so the defendant must have given the notice relied on, which occurred two or three years after the occupation commenced. The argument advanced for the defendant was that his tenancy had been at will, so that the (penal) statute was inapplicable; but it was held that the effect of what had happened was to create a tenancy from year to year. It is on this point that the case has been cited in other decisions, for the report does not actually say whether rent had ever been paid or not.

In *Doe d. Thomas* v. *Field*, an application was made by a landlord under the since repealed 1 Geo. IV, c. 87, s. 1, for an order that the tenant holding over should find sureties for payment of the costs of ejectment proceedings (possession in default). He had permitted the tenant to remain in occupation for over a year after the expiration of the former tenancy, and Patteson, J., held that though no rent had been paid a yearly tenancy had been created. But no positive act was mentioned, and the idea that mere permission can create a tenancy is in conflict with better-known authorities.

More instructive is the Irish case of *Lessee of Samuel Smith* v. *Byrne* (1826), Batty 464, in which the defendant to ejectment proceedings successfully set up that she had never had a notice to quit. In 1824 the premises were occupied by her

father. The then landlord, predecessor in title of Samuel Smith, had then handed her the keys, saying: "Now you are under rent from this time." He also gave her a document promising her a ninety-eight year lease. It was not till after his death next year that she moved in, the premises still being occupied by her father, whose name continued to appear on the door (he carried on business as a "huxter"). It was held that even without the document her case was made out, though she had paid no rent; she was a yearly tenant, entitled to six months' notice.

A dictum in *Rognart* v. *Porter* (1831), 7 Bing. 451, supports the proposition that payment of rent is unnecessary to establish a yearly tenancy in lieu of a void lease. The action was for replevin, the defendant alleging that an unexecuted agreement for a sixty-year lease had been entered into some four years previously, the plaintiff having occupied the premises without payment since. On the ground that the defendant had not made out what the terms of the agreement exactly included, judgment was given against him; but the judgment in question included the following: "If a party enters and pays, or *promises to pay* a rent certain, or settles it in account, a new agreement may be presumed."

I return to Ireland for the last and most authoritative decision on the point. In *Fahy* v. *O'Donnell* (1870), 4 I.R. C.L. 332, the facts were that in 1857 the plaintiff, a landlord who had just come of age, asked an occupier (to use a neutral expression) of some of his land for rent; H., the occupier in question, asked for a new arrangement. The plaintiff agreed; formally took possession, restored it and said "now you are my tenant." The agreement was for a lease for a life or lives at £4 10s. a year, but H. never paid any, and next year some variation of the arrangement was effected, the holding being split, and part of it only being occupied by H., who agreed a rent of £2 5s. A lease was sent to him, but was never executed, nor was the new rent ever paid. In 1861 he mortgaged the land to the defendant, who, when H. died in 1867, was receiving rent for the premises. The plaintiff now instituted forfeiture proceedings under the (Irish) Landlord and Tenant Act, 1860, on the ground of non-payment of rent. The answer that none had ever been paid does seem a bit out of place, but the idea may have been to set up a squatter's title. It was held that the events of 1857 had brought a yearly tenancy into being, and as twenty years (the then period) had not elapsed, the plaintiff succeeded.

When rent is paid, the inference is not necessarily a yearly tenancy. Those who thought that there was a hard-and-fast rule were disillusioned a few years ago by *Ladies' Hosiery and Underwear Ltd.* v. *Parker* [1930] 1 Ch. 304, C.A. The presumption was rebutted, as the head-note states, by reference to the fact that the rent was a weekly one; but it is worth noting that a number of factors, mentioned in the judgment of Maugham, J., played a part, such as the character of the property concerned.

Our County Court Letter.

THE AGE OF USED MOTOR CARS.

In *J. Brittain Pash, Ltd.* v. *Eastern Automobiles, Ltd.*, recently heard at Chelmsford County Court, the claim was for rescission of a contract for the sale of a car, and the return of £65, money paid; alternatively for damages for breach of warranty. The plaintiffs' case was that they had bought a Morris Oxford car from the defendants on the verbal representation that the car was a 1934 model, first registered in 1933; that it had only had one owner, and had done 30,000 miles. On certain minor defects being remedied, the plaintiffs' chairman signed an order form, and took delivery on payment of £65. The registration book subsequently revealed, however, that the car was first registered in 1931. A submission was made that there was no case to answer, as the order form, signed by the plaintiffs' chairman, was a complete contract, which was silent as to the date of the model, and could not be varied by parol evidence on the latter point. The submission was overruled, and the defendants' evidence was that their sales manager knew the car was a 1932 model, and had never said otherwise. The plaintiffs' chairman had asked the age of the car, before signing the order, and was told it was a 1932 model. This fact was not stated in the order form, as it was unusual to specify the date of the model, this being less important than the condition of the car. His Honour Judge Hildesley, K.C., observed that it was not a case of an illiterate person signing a document. In view of the conflict of evidence the plaintiffs' case failed. Judgment was therefore given for the defendants, with costs.

LIABILITY FOR FLOODING.

In the recent case of *Bowles & Jordan* v. *Bond*, at Southend County Court, the claim was for an injunction to restrain the defendant from damming a ditch for the drainage of water from the plaintiffs' land, and for damages. The plaintiffs were nurserymen, and their case was that from October, 1936, the defendant had obstructed the flow of surface water, whereby the plaintiffs' land became waterlogged, and many bulbs were destroyed. The ditch was a natural watercourse, and, in a lease dated the 5th October, 1900, there was a proviso for cleansing and keeping in order all watercourses and drains. Until a part of the ditch was filled in, and a dam constructed, the plaintiffs had had no trouble with flooding. A claim to a watercourse over the land of another was indefeasible after forty years, under the Prescription Act, 1832, s. 2. An old inhabitant's evidence was that her parents lived near the spot forty-eight years ago, and water had been running in the ditch as long as she could remember. The defendant's case was that the watercourse was not natural but artificial, although there was no defined ditch or stream. The waterlogged condition of the plaintiffs' land was due to saturation of the soil from excessive rain, and was not caused by the dam. This had been lawfully erected to protect the defendant's land from stagnant floodwater, which originated from another dam, erected by the plaintiffs themselves in a neighbouring brook. His Honour Judge Beazley observed that the latter contention was unsupported by evidence, and there was no indication of flooding from the brook. The alternative view was that the floodwater was due to excessive rain, and, as the evidence supported the view that the ditch was a natural watercourse, the plaintiffs were entitled to an injunction. Judgment was given accordingly, and for £3 nominal damages and costs.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

DEPENDENCY AND FAMILY FUND.

In *Lee* v. *William Moss and Sons, Ltd.*, at Loughborough County Court, the applicant's case was that his deceased son, who had died from an accident while working for the respondents, had paid 30s. (out of his wages of £3 12s.) towards the household expenses. The family had consisted of the applicant (who earned £3 a week), his wife, and three daughters and a son, in addition to the deceased. The total family earnings were £11 8s. a week, and the applicant paid 30s. towards household expenses and 30s. towards rates (which were £8 a year), gas bills, etc. Since the death of the deceased the applicant had had to withdraw £40 from the savings bank, which had been spent on necessaries. The respondents' case was that the death of the deceased had made no appreciable difference to the maintenance of the family. The death had occurred in October, 1936, and the first figures revealed no claim, but the other members' contributions had since been reduced. The whole of the applicant's earnings admittedly

went into the common fund, but the gifts of the daughters merely added to the amenities, and could not be considered as showing dependency. His Honour Judge Galbraith, K.C., held that the family as a whole was dependent on the deceased. The money going into the house was all spent on necessaries, and an award was made of £75, subject to a later application on the question of apportionment among the family.

PARTIAL DISABILITY AND EARNING CAPACITY.

In *Jones* v. *Boswell*, at Madeley County Court, the applicant's case was that, being an unemployed tile-presser, he had obtained work in March, 1935, with the respondent—a public works contractor. In September, 1935, the applicant was braking skips down a line, when his left hand was crushed, resulting in the loss of the little finger. Compensation was paid until the 26th December, 1935, when the applicant returned to his original firm. He could not resume work as a tile-presser, owing to his injured hand, and had only done general labouring work, whereby his earning capacity was reduced. The respondent's case was that he had only employed the applicant as a general labourer, and his partial disability did not prevent him from still doing that work. There was, therefore, no incapacity to earn the same wages as before the accident. His Honour Judge Samuel, K.C., held that the applicant, being fit to do general labourer's work, was not entitled to a monetary award. A declaration of liability was made, but, on the general issue, judgment was given for the respondent.

LAMENESS FROM HORSE'S KICK.

In *Jones* v. *James*, at Lampeter County Court, the applicant was a smallholder, who also worked for other farmers. For three months a year, during the past ten years, the applicant had taken out a stallion for the respondent, at £3 a week. On the 1st July, 1935, the applicant was kicked, above the right knee joint, and he afterwards suffered from lameness. Compensation at 30s. a week was paid up to the 30th June, 1936, when it ceased on the ground that his disability arose from arthritis, which was present in both knee joints, but was not attributable to the accident. The applicant's medical evidence was that he had been normal before the accident, and had not suffered from rheumatic pains, but he was now unfit to do all the work on a farm. The respondent's medical evidence was that, although there was a scar formation on the muscle, it had no effect on the applicant's present condition. If he had started to work his leg sooner there would have been an improvement in his condition. His Honour Judge Frank Davies held that the applicant was still suffering from the effect of the accident. An award was made of 17s. 6d. a week as from the 29th June, 1936.

Reviews.

The King and the Imperial Crown. By A. Berriedale Keith, D.C.L., D.Litt., LL.D., F.B.A., of the Inner Temple, Barrister-at-Law. Advocate of the Scottish Bar. 1936. Royal 8vo. pp. xiv and (with Index) 491. London, New York and Toronto: Longman's, Green & Co. 21s. net.

This profoundly interesting book has a very special importance at the present time when such unusual events have focussed the eyes of the world on the British Crown. In the legal analysis of the King's place and function in the Constitution, the lawyer will find the author both safe and sure, fully justifying his acknowledged pre-eminence among constitutional jurists. The more general reader too, will find both pleasure and instruction in his well-planned exposition. In particular, the chapter on the royal accession and the Coronation have a topical as well as a permanent value. This work was completed before the late constitutional crisis and readers will look forward to a future edition to discuss the legal aspect of that unparalleled problem. The only blemish on this work is an undue emphasis on political history in relation to the position of the Crown. When he treads upon this ground the author loses much of his characteristic lucidity of style. Moreover, some of his judgments may appear a little harsh and suggest controversies which in so valuable a legal work are out of place. In spite of this, however, the work deals worthily and well with its great subject—the powers and duties of the King.

Meetings: The Chairman's Pilot and Chart. By Morton F. Parish. Second Edition, 1936. Crown 8vo. pp. xvi and (with Index) 164. London: Sweet & Maxwell, Ltd. 6s. net.

Mr. Parish has produced a welcome handbook for use at meetings when there is little time to spend in looking for a precedent. It frequently falls to the lot of solicitors, often enough because they "belong to the law," to take the chair at a variety of meetings, and all who do so will be thankful for this help in lightening what is only too frequently a heavy charge on not long leisure hours.

Five Hundred Points in Club Law and Procedure. By R. S. Chapman. Tenth Edition. 1936. F'cap 8vo. pp. (with Index) 178. London: The Working Men's Club and Institute Union Ltd. 2s. 6d. net, 2s. 9d. post free.

This is a useful little compendium containing a résumé of the law on most of the points which may arise in the experience of club secretaries and advisers. Club members will also find the work interesting reading. For instance, it is pointed out that it is not illegal for a member to bring his wife to his club, but it is illegal to allow her to pay there for any excisable drink. Material obviously exists here for a new misleading case. The few important cases which are cited are fully explained, and the lay reader will not find himself unduly embarrassed with legal jargon.

Books Received.

Palmer's Company Precedents. Part II.—Winding-up Forms and Practice. Fifteenth Edition. 1937. By Alfred F. Topham, LL.M., Bencher of Lincoln's Inn, one of His Majesty's Counsel, and A. M. R. Topham, B.A., of Lincoln's Inn, Barrister-at-Law. Royal 8vo. pp. cxlix and (with Index) 1415. London: Stevens & Sons, Ltd. £3 3s. net.

Mews' Digest of English Case Law. Second Edition. Twelfth Annual Supplement, 1936. By G. T. Whitfield Hayes, Barrister-at-Law. 1937. Royal 8vo. London: Sweet and Maxwell, Ltd.; Stevens & Sons, Ltd. £1 net.

An Outline of Local Government and Local Finance in England and Wales (excluding London). By the late Sir Robert S. Wright, sometime a Judge of the High Court of Justice, and The Rt. Hon. Henry Hobhouse. Eighth Edition, 1937. By Cecil Oakes, LL.M., Clerk of the Peace and of the County Council of East Suffolk, and G. A. Wheatley, B.C.L., M.A., Assistant Solicitor to the North Riding of Yorkshire County Council. Royal 8vo. pp. viii and (with Index) 330. London: Sweet & Maxwell, Ltd. 12s. 6d. net.

Macgillivray on Insurance Law relating to all risks other than Marine. Second Edition, 1937. By E. J. Macgillivray, LL.B., of the Inner Temple, Barrister-at-Law, and Denis Browne, M.A., of Lincoln's Inn, Barrister-at-Law. Royal 8vo. pp. civ and (with Index) 1451. London: Sweet and Maxwell, Ltd. £3 10s. net.

British Death Duties Acts, 1796 to 1924. Supplement No. 4, 1931–1936. London: H.M. Stationery Office. 2s. 6d. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Merchandise Marks Act, 1926.

Q. 3423. The Merchandise Marks Act, 1926, requires imported goods sold under any name, etc., to have an indication of origin. Under s. 10 (1) (*a*) certain imported goods are exempted in consequence of having undergone since importation a treatment or process resulting in a substantial change in the goods. Certain manufacturers import an ingredient which forms the largest proportion of a material sold for use in building. The manufacture of this material consists of mixing and rendering into suitable form for use. It is desired to know whether, under the above Acts or otherwise, such material when manufactured is required to be marked; or whether, in consequence of the manufacture mentioned, it is exempted notwithstanding the larger proportion consists of such imported ingredient. It may be added that the material is sold under a trade name. If there are any particular decisions under s. 10 (1) (*a*) referred to, a note would be appreciated.

A. The fact that the material is mixed with another substance constitutes a substantial change in the goods, within the meaning of s. 10 (1) (*a*). The circumstance that the imported goods form the larger proportion of the product does not necessitate their being marked. No decisions have been reported on the subject.

Official Searches in Land Charges Registry.

Q. 3424. We shall be glad if you will let us have your opinion as to the liability of a solicitor acting for a purchaser of property from a vendor who has at the time of completion, or who has shortly before completion, discharged a mortgage effected on the property sold. Perhaps you will let us have your view upon the following points:—

(1) Should an Official Land Charges Search be made against the vendor's mortgagee?

(2) Would the failure to make such a search constitute negligence on the part of the purchaser's solicitor concerned in the matter? It appears to us that the practice is to make searches against mortgagees who are private individuals but not against building societies, banks or similar bodies.

(3) What rights would a purchaser of the property have against a vendor's mortgagee on his covenant against incumbrances implied in the re-conveyance to the vendor or the statutory receipt in respect of land charges registered against a vendor's mortgagee?

(4) Would the purchaser in respect of any land charges registered against the vendor's mortgagee and discovered after completion be entitled to insist on the mortgagee who had re-conveyed, removing the entries from the Land Charges Register, or would the purchaser's only remedy sound in damages?

A. (1) A purchaser should see or obtain an official certificate of search against all persons who have been estate owners since 1st January, 1926. In most cases certificates will have been obtained previously and abstracted. The proper course in the present case would be for the vendor to obtain the certificate when he redeems and then produce it to the purchaser; but if this is not done the purchaser must get the certificate.

(2) Yes, there appears to be no question that such failure would be negligent. There seems to be no valid reason to make an exception of large institutions, particularly if there is any possibility of the mortgagee's power of sale having arisen. The purchaser's solicitor should in this case give the narrowest possible description of the property in his requisition or he may be embarrassed by a list of registrations which may or may not affect the property, each of which would then have to be investigated separately.

(3) and (4). It does not appear that the fact of registration lessens any of the purchaser's rights to sue on covenants for title. The fact that a purchaser has notice of an incumbrance is no defence to his action on the covenant. See Dart's "Vendors and Purchasers," Ed. 8, Vol. II, pp. 671–2, which statement was approved in *Page* v. *Midland Railway Co.* [1894] 1 Ch. 11.

The court would probably refuse to order the mortgagee to discharge the land charge, because the mortgagee might be unable to do so; but if the charge itself is such as may be discharged by a monetary payment or otherwise, the purchaser could discharge it and could then compel the person who registered it to discharge the registration, and in default could ask for an order of the Court (L.C.A., 1925, ss. 2 (6), 6 (5), 8 (3) and 10 (8)). He would also have the rights against the vendor provided by L.P.A., 1925, s. 43 (1).

Undivided Shares—Legal Estate in One Share Absolutely Vested—Legal Estate in the Other vested in Heir-at-Law of Co-Tenant—No Grant in the Intestacy—Beneficial Interest held in Same Manner—Transitional Provisions of L.P.A., 1925.

Q. 3425. Blackacre was, in 1904, conveyed to A and B in fee simple as tenants in common. B died in 1918 intestate, leaving C his heir-at-law, but no letters of administration to his estate have ever been taken out. C died in 1926, having devised all his property to his wife for life (the wife being still alive), and appointed A and D his executors. D has died and A appointed E to be an additional trustee with him of the will of C. It is now desired to sell Blackacre. It would appear that on 1st January, 1926, either the legal estate vested in the Public Trustee or, alternatively, the outstanding legal estate in B's moiety vested in C, and A and C held on trust for sale. We shall be glad of your suggestions and a reference to a precedent would oblige.

A. On 31st December, 1925, the legal estate was vested as to one undivided share in A and as to the other in C as heir-at-law of B. On the assumption that B left no widow entitled to dower, the beneficial interest on that date was held in the same manner as the legal estate. It would therefore appear that on 1st January, 1926, A and C took the legal estate in the entirety upon the statutory trusts. On this basis A must appoint another trustee of the statutory trusts to act with himself in the place of the late C, when he will be in a position to make title in concert with his co-trustee under the statutory trusts. We would observe that L.P.A., 1925, Sched. I, Pt. II, para. 3, has no application to the legal estate in an undivided share (see para. 7 (*f*) of that part of that schedule). A grant in the estate of B will no doubt be required for the due distribution of the proceeds of sale and the payment of duties. We express the opinion that though this grant, when made, will relate back to the date of the death of B, this fact will not disturb the operation as indicated above of the transitional provisions of L.P.A., 1925. The documents required are an appointment of the new trustee and the subsequent conveyance. Both documents will present no difficulty, being practically in common form.

To-day and Yesterday.

LEGAL CALENDAR.

12 APRIL.—On the 12th April, 1587, Sir Thomas Bromley, the Lord Chancellor, died at three o'clock in the morning in his fifty-eighth year.

13 APRIL.—On the 13th April, 1785, William Higson was executed at Newgate for the murder of his nine-year-old son. We are told "that the above cruel wretch seemed more shocked at the idea of being dissected at Surgeons' Hall than with death itself. The horrid spectacles he had seen there of several murderers, from time to time, made a deep impression upon his mind and engrossed part of his conversation after his sentence."

14 APRIL.—On the 14th April, 1730, Chief Baron Pengelly died of gaol fever at Blandford. He had been going the Western Circuit and at Taunton had tried a batch of malefactors brought from Ilchester gaol. Their frightful stench had been the outward sign of the deadly infection which they carried, and among the victims were the judge Serjeant Sheppard and the High Sheriff of the County. He was a severe loss to the Bench, for few judges of his time more signally commanded public confidence.

15 APRIL.—Boswell records that on Easter Sunday, 15th April, 1781, Dr. Scott (afterwards the great Lord Stowell) called on Dr. Johnson. "He talked of its having been said that Addison wrote some of his best papers in *The Spectator* when warm with wine. Dr. Johnson did not seem willing to admit this. Dr. Scott as a confirmation of it related that Blackstone, a sober man, composed his Commentaries with a bottle of port before him, and found his mind invigorated and supported in the fatigue of his great work by a temperate use of it."

16 APRIL.—On the 16th April, 1771, Sir Edward Clive, formerly a Justice of the Common Pleas, died at Bath at the age of sixty-seven, a year after he had retired from the Bench, making way for the great Blackstone. He had sat for seventeen years in the Common Pleas, having already served for eight years in the Court of Exchequer. He is one of those judges who pass away and leave no trace behind, his chief title to remembrance being that he once held a surgeon to be an "inferior tradesman" within a statute of William and Mary.

17 APRIL.—The primitive life of the Hebrides seemed to take possession of the Court of Inverary when Hector M'Donald, a young labourer from the island of Tyree, was tried on the 15th April, 1857, for the murder of his wife. Her mother, with whom they had lived, gave her evidence in Gaelic. In her mouth even the sordid story of jealousy and quarrelling took on the quality of primitive poetry peculiar to the Celts. The audience seemed to live over the rude life in the cottage divided by a wooden partition, where the beds were straw on the earthen floor, kept in place by a row of stones. The woman told how she had found the prisoner with his wife half strangled in his arms, and in describing how she fell when he let her go, she left the witness box to demonstrate, and with intense dramatic effect staggered and slid softly to the floor on her face with a low, deep moan. M'Donald was found guilty of culpable homicide and sentenced to transportation for life.

18 APRIL.—The relatively lenient sentence which Mr. Baron Cleasby passed on a young Irishman, named O'Connor, who had pointed an unloaded pistol at Queen Victoria, roused her severe displeasure. On the 18th April, 1872, she wrote to Mr. Gladstone asking him to call the Lord Chancellor's attention "to the conduct of Judge Cleasby, who behaved so badly on the occasion of O'Connor, on a recent occasion when he sentenced a man who pushed his wife under a dray-cart, which she died from, only to three months' imprisonment, while for some trumpery theft, another was sentenced to three years' imprisonment. Surely this cannot go on if justice is to exist at all!"

THE WEEK'S PERSONALITY.

Of all his judicial acts during the eight years that he filled the office of Chancellor, it was presiding at the trial of Mary Queen of Scots that focuses the attention of posterity on Sir Thomas Bromley. He it was who incurred the greatest responsibility for her execution, and there is a dramatic completeness in the fact that less than three months after her head fell at Fotheringay he had followed her to the grave. The strain of the prosecution, perhaps remorse at the character of the proceedings, almost certainly apprehensive as to the attitude of Elizabeth, combined to undermine his health. The execution took place on the 8th February, 1587. Bromley fell ill on the 15th. In March, by reason of his continued sickness, the Chief Justice of the Common Pleas was appointed to act for him. He never rallied, and on the 12th April, at three o'clock in the morning, he breathed his last, being then in his fifty-eighth year. He rests in Westminster Abbey, in the Chapel of St. Paul. On his tomb lies his effigy robed, while his epitaph tells how "when he had for eight years delivered Equity with singular Integrity and Temper of Mind, being snatch'd hastily away to the grief of all good men, he was buried here." Only a few yards away lies the Queen of Scots.

THE DANGERS OF DEMONSTRATION.

Perhaps the three New York judges who declined to view a special court demonstration of "strip tease" and decided on oral evidence alone that it was indecent had learned prudence from the lessons of judicial history. They may have remembered what happened in Toledo when the ecclesiastical courts tried to put down the bolero on the ground of immorality. A demonstration, however, was allowed which culminated in a Gilbertian episode with Bench and Bar casting aside gowns and briefs and joining in, too. Again, it is more than likely that they remembered the disturbing effect produced on the Athenian judges when the lovely Phryne, original of the Venus of Praxiteles, stood before them on a capital charge and her advocate, Hyperides, at the culmination of an impassioned speech, secured an instantaneous acquittal by revealing her naked beauty to the court. It was in a more prudent spirit that Farwell, L.J., trying a case in which the alleged immorality of Daudet's "Sapho" was in issue, refused to read it on the ground that he was convinced of its impropriety and handed it over to Sir Squire Bancroft for a report.

ILL-HOUSED JUSTICE.

Recently, Mr. Justice Hilbery, holding his court in one of the hovels which disfigure the courtyard of the Royal Courts of Justice, very properly observed: "We are struggling to do work in this absolutely insufficient hut, and it is an extremely difficult place in which either to hear or to be heard, and, so far as I can see, it is as inconvenient and unsuitable a place in which to try a case as anything that could be devised." It is odd that British Themis should always have lodged so extremely ill. The Common Pleas, in its original site near the great gate of Westminster Hall, suffered intensely from the draught and the noise, and for antiquarian reasons Bridgeman, C.J., refused to move it to a more convenient recess. It took a fire to remove the shops which stood in the Hall hindering the administration of justice, and even high partitions for the courts were an afterthought and an innovation. The immediate predecessor of the present courts at Westminster was far from commodious, and once Baron Martin, sitting with Baron Bramwell in a wretched room at the top of the building, rejected an argument of counsel thus: "If you think that I and my brother Bramwell sitting up in this cock-loft are going to overrule the House of Lords, you were never more mistaken."

Notes of Cases.

House of Lords.

The King *v.* International Trustee for the Protection of Bondholders, Aktiengesellschaft.

Lord Atkin, Lord Russell of Killowen, Lord Macmillan, Lord Maugham and Lord Roche.

15th March, 1937.

CONTRACT—BONDS ISSUED IN UNITED STATES BY BRITISH GOVERNMENT—OBLIGATION TO DISCHARGE IN GOLD COIN—PAYMENT IN GOLD MADE ILLEGAL IN UNITED STATES—EFFECT ON OBLIGATION.

Appeal from a decision of the Court of Appeal (80 SOL. J. 913) reversing a decision of Branson, J. (80 SOL. J. 109), dismissing a petition of right.

The respondent company, who were the suppliants in the petition of right before Branson, J., were holders of a bond for $1,000, dated the 1st February, 1917, and issued by the British Government, which provided, *inter alia*, that the principal and interest would be paid at the option of the holder either in New York in gold coin of the United States of America of the standard of weight and fineness existing on the 1st February, 1917, or in the City of London, in sterling money at the fixed rate of $4.86\frac{1}{2}$ to the pound. The suppliant contended that, on the true construction of the bond, the British Government contracted to satisfy their obligation under the bond by paying in New York on the due date in the money of account of the United States an amount calculated to represent the same amount of gold as the specified gold coin would have contained. In 1933, the gold content of the dollar in the United States had been reduced by a resolution of Congress providing, *inter alia*, that "every provision . . . with respect to any obligation which purports to give the obliger a right to require payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, is declared to be against public policy and no such provision shall be . . . made," and every obligation, including those previously made, was to be satisfied by payment dollar for dollar in any currency which was legal tender at the time. Branson, J., and the Court of Appeal, held that the contract was governed by English law, but the Court of Appeal held that the obligation did not offend against the resolution of Congress. (*Cur. adv. vult.*)

LORD ATKIN, giving judgment, said that the legal principles which were to guide an English Court on the question of the proper law of a contract were now well settled. It was the law which the parties intended to apply. The principle of law so stated applied equally to contracts to which a sovereign State was a party as to other contracts. Branson, J., and the Court of Appeal appeared to have considered themselves bound by authority to hold that, where a sovereign State was party to a contract, the only proper inference to be drawn was that it did not intend that any system of law should be applied to its contract other than its own. For this proposition *Smith* v. *Weguelin* (L.R. 8, Eq. 198) and *Goodwin* v. *Robarts* (I. App. Cas. 476) were cited. Those cases afforded little authority for the proposition, which in principle must be ill-founded. It could not be disputed that a Government might expressly agree to be bound by a foreign law. It seemed equally indisputable that, without any expressed intention, the inference that a Government so intended might be necessarily inferred from the circumstances. The notes were issued in America, they were expressed in terms of American currency, they were to be paid on one option in America on a value estimated by reference to American coins. Also, they were secured by a pledge agreement made in America giving rights governed by American law. The obligation to pay in England was secured only by the American pledge agreement. If the notes were governed by American law, how was it possible to avoid the conclusion that the bonds into which at the will of the holders they were convertible before maturity were intended to be governed by the same law? The effect in America of the resolution of Congress was admitted as requiring a bond expressed in the present form to be discharged dollar for dollar of the nominal amount. Therefore, the suppliants, who only founded their petition of right upon their claim to be paid in America a larger sum than the nominal amount of the bond, must fail, and the appeal must be allowed.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.), *Gavin Simonds*, K.C., *Andrewes-Uthwatt*, and *Valentine Holmes*, for the Crown; *Sir William Jowitt*, K.C., *Cyril Radcliffe*, K.C., and *G. C. Dunbar*, for the respondents.

SOLICITORS: *The Treasury Solicitor; Allen & Overy.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

Naamlooze Vennootschap Handels-en-Transport Maatschappij "Vulcaan" *v.* J. Ludwig Mowinckels Rederi A/S.

Lord Wright, M.R., Romer and Scott, L.JJ.

9th and 10th February, 1937.

ARBITRATION — SHIPPING — STATUTE OF LIMITATIONS — WHETHER APPLICABLE—PARTNERSHIP.

Appeal from a decision of Branson, J.

The charterers of two ships alleged a deficiency in their dead weight carrying capacity and made a claim against the owners in respect of four periods extending from their completion in 1912-13 to 1931, contending that by reason thereof they had paid excessive hire, save during the War, when the ships were run by the owners on joint account with the charterers, in which period they contended that they had received too small a share of the profits from the owners. In an arbitration under the common form arbitration clause in the charter-party, the arbitrator held (*inter alia*) that the claim in respect of the first three periods was barred by the Statute of Limitations. Branson, J., upheld the decision and the charterers appealed.

LORD WRIGHT, M.R., dismissing the appeal, said that the question was whether the Statute of Limitations applied to arbitrations such as this in which legal rights had been advanced and denied. The appellants had argued that questions of limitation were questions of procedure and not of substantive law. But for effective business purposes limitation had the result of rendering agreements unenforceable and was on quite a different footing from what was generally meant by questions of practice and procedure. The reasonable conclusion was that the arbitrator was bound to apply the rules of limitation. (The Arbitration Act, 1934, s. 16 (4), did not apply to this arbitration, which was commenced before it was passed.) His lordship further said that it had been argued by the appellants that though the statute applied, yet when the ships were being run on terms of joint adventure those partnership transactions excluded its applicability because, it was said, the relationship was of a fiduciary character. But though there was a fiduciary relationship while the partnership was subsisting, the position was changed when it was dissolved, and it became a relationship of debtor and creditor in respect of partnership transactions (i.e., where there was no question of fraud or breach of trust). In a simple case the statute ran from the dissolution of the partnership (see "Lindley on Partnership," 6th ed., pp. 511–12, and *Knox* v. *Gye*, L.R. 5 H.L. 656). His lordship further dealt on the facts with the date of the commencement of the arbitration and said that the appeal must be dismissed.

ROMER and SCOTT, L.JJ., agreed.

COUNSEL: *Chappell*, K.C., and *Cyril Miller; Sir Robert Aske*, K.C., and *Naisby.*

SOLICITORS: *Richards, Butler, Stokes & Woodham Smith; Sinclair, Roche & Temperley.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Great Western Railway *v.* **United Kingdom Chamber of Shipping.**

Lord Wright, M.R., Romer and Scott, L.JJ.
2nd and 3rd March, 1937.

RAILWAYS—APPLICATION FOR LEAVE TO GRANT EXCEPTIONAL RATES—COMPETITION WITH COASTWISE SHIPPING—OBJECTION BY CHAMBER OF SHIPPING—RIGHT TO APPEAR—PREJUDICIAL EFFECT ON COMPETING CARRIER NO GROUND OF OBJECTION—RAILWAYS ACT, 1921 (11 & 12 Geo. 5, c. 55), s. 37 (1).

Appeal from the Railway Rates Tribunal.

The railway company applied under s. 37 (1) of the Railways Act, 1921, for leave to grant exceptional rates more than 40 per cent. below standard so that it might compete with coastwise shipping. The Chamber of Shipping gave notice of objection on the ground that the proposed rates, by diverting traffic from ship to rail, would adversely affect its members whose ships were engaged in coastal trade, placing them under an unfair disadvantage, and were not, therefore, in the national interest. (The Chamber of Shipping held a Board of Trade certificate that it represented persons likely to be affected.) The Tribunal having held that the effect of the proposed rate on competing carriers was irrelevant, the only question being its effect on the railway's revenue, the Chamber of Shipping appealed.

LORD WRIGHT, M.R., dismissing the appeal, said that the Tribunal had held that the Chamber of Shipping was entitled to appear, and that part of the decision was not now in question. The only question was the scope of the inquiry, and this turned on s. 37 (1). Standard charges were to be fixed with a view to encouraging economies in working and management expenses, and the Tribunal was also to have regard to what was most likely to ensure the maximum extension and development in the public interest of the carriage by railway of merchandise and passengers. The charges in respect of any business carried on by the company subsidiary to its railways had also to be taken into account. Under s. 37 there was a general liberty to grant new exceptional rates which must be reported to the Minister. But when they were more than 40 per cent. below the standard rate they were not operative without the consent of the Rates Tribunal. There was no express provision in s. 37 (1) giving the Chamber of Shipping the right to raise the questions it claimed, and on its true construction these matters were not open, since the inquiry was concerned purely with a question of the company's own finance. The appeal must be dismissed.

ROMER and SCOTT, L.JJ., agreed.

COUNSEL: *Sir Robert Aske*, K.C., and *J. R. Adams*; *A. Tylor* and *Newark*.

SOLICITORS: *Cleminson & Hill*; *G. J. Cole Deacon*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Cousen's Will Trusts; Wright** *v.* **Killik.**

Farwell, J. 1st March, 1937.

WILL—CONSTRUCTION—GIFT OF SHARE—TO GO TO PERSONAL REPRESENTATIVES IF BENEFICIARY PREDECEASED TESTATOR—DEATH OF BENEFICIARY AND PERSONAL REPRESENTATIVE—LAPSE.

By his will, made in 1907, the testator gave his real and personal estate to his wife during her life, directing that after her death half the fund should be held in trust for the children of his late uncle who should be living at the time of his death, in equal shares, provided that if any such child "shall have died in my lifetime . . . leaving issue living at my death, the share in the residuary trust funds which such child would have taken, if he or she had survived me, shall be held in trust for his or her personal representatives as part of his or her personal estate." The testator died in 1919, and his wife in 1930. No child of his uncle was living at the date of his death. A daughter had died intestate in 1884, leaving issue who were living at the testator's death, and a husband who became her legal personal representative and was beneficially entitled to the whole of her estate. The question now arose who was entitled to her share and whether it vested in her next-of-kin.

FARWELL, J., in giving judgment, said that if there had been no provision for the event of the daughter predeceasing the testator and no trust following for her personal representative, there must have been a lapse. The effect of such a provision had been established in *Long* v. *Watkinson*, 17 Beav. 471, at p. 473, and *Lord Advocate* v. *Bogie* [1894] A.C. 83, at pp. 91, 95. It was as though the testator had said that in the event of the beneficiary predeceasing him, her share was to be held by her legal personal representatives on the same trusts as those on which they held her personal estate, not so as to make it part of her estate, but simply as though the property were being held as part of the testator's estate to be distributed in accordance with the directions of his will, which was by reference to whatever her dispositions might have been with regard to her own property. Her personal representatives were intended to take the share as trustees of her property in trust for the persons entitled, but difficulty arose because the lady's husband, who was her legal personal representative and became beneficially entitled to the whole of her estate, did not survive the testator. Reading the gift as one to the person beneficially entitled to her estate, it followed that there would be a lapse, and this part of the testator's estate would be undisposed of. It had been argued, however, that the testator's will could only speak as from his death, and that it had to be seen who was then entitled to the lady's estate. It was further contended that her estate had beneficially passed to her husband so as to become part of his, and that whoever was entitled to his estate was entitled to take under this gift. That was not, however, in accordance with *In re Bosanquet*, 113 L.T. 152. The fund in question was undisposed of.

COUNSEL: *Gover*, K.C., and *Droop*; *Harman*, K.C., and *W. M. Hunt*; *Morton*, K.C., and *George Slade*; *McQueen*.

SOLICITORS: *Maude & Tunnicliffe*, agents for *J. C. Dacre*, of Otley, Yorks; *Kingsford, Dorman & Co.*; *Batchelor, Pirkis & Fry*, agents for *Mumfords & Gordons*, of Bradford.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re **Waterhouse's Policy.**

Farwell, J. 2nd March, 1937.

STAMPS—OVERDRAFT AT BANK—DEPOSIT OF ASSURANCE POLICY AS SECURITY—MORTGAGE STAMPED TO COVER SUM LESS THAN AMOUNT OF POLICY—ASSURANCE COMPANY—DUTY TO LENDER—STAMP ACT, 1891 (54 & 55 Vict., c. 39), s. 88 (2).

In 1908 Waterhouse insured his life for £500 with profits, payable on his death or on his attaining sixty, whichever should first happen. In 1928 he assigned to his bank to secure his overdraft this policy among other securities, the overdraft being then over £500. The mortgage bore a stamp sufficient to cover the sum as security for £500 and no more. On the 13th August, 1936, Waterhouse having attained sixty, the policy moneys became payable, i.e., £500, the original amount, and £463 profits. There was no charge on the policy besides the mortgage of 1928. Immediately before the moneys became payable the bank requested the company, since the deed was stamped to cover no more than £500, to pay them that sum and the balance to Waterhouse, but this was refused, and on the 16th November, 1936, the company paid the moneys into court under the Life Assurance Companies (Payment into Court) Act, 1896, and R.S.C. Ord. LIV C. The assured and the bank now asked for

payment out to them and also for an order that the company should lodge in court a sum equivalent to interest at 4 per cent. on the £963 lodged by them in court from the 13th August, 1936, down to the date of the order now asked for (deducting any deposit interest earned by the sum since the payment into court). It was also asked that the company should pay the costs of the application.

FARWELL, J., in giving judgment, said that the matter depended on ss. 88 and 118 of the Stamp Act, 1891. The insurance company to get a discharge for money due from it must be satisfied that the assignment was sufficiently stamped and risked a penalty if it paid the money to an assignee on a security insufficiently stamped. This company contended that the security here was stamped for a loan of £500 and no more, but that the bank had let the assured overdraw his account to a greater sum, and that, therefore, the policy became a security for a sum larger than £500 and should have been stamped with an additional stamp. But the true effect of s. 88 (2) was that where the bank allowed a customer to overdraw, and no limit was placed on the overdraft, the security was for a limited amount only, and any overdraft beyond it was not covered. There was no need for the bank to stamp the security for any amount greater than that for which it looked to the security. The result of s. 88 (2) was that the bank was precluded from claiming that the security was for a greater amount than the stamp on it covered. If it wished the security to be increased, there must be a stamp with a further duty. Here the bank was entitled to claim from the insurance company £500 only. The company was bound to pay it this and, there being no notice of any other security, the balance then became payable to the assured. The applicants were accordingly entitled to the money in court. As to the claim for interest, when the money was paid into court, there being a *bonâ fide* doubt in the minds of the directors whether it was safe to pay it over, the company obtained a discharge, but from the 13th August, when the amount became due, till the date of payment into court, it was liable to pay interest at 4 per cent. As to the question of costs, the application for payment out could have been made without making the company a party, but the applicants had to make it a party to claim interest or costs. However, the claim for interest had not wholly succeeded, and there would be no order as to costs.

COUNSEL: *Murphy*, K.C., and *Geoffrey Cross*; *R. Goff*.

SOLICITORS: *Freshfields, Leese & Munns*; *Walters & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Miller *v.* Cecil Film Ltd. and Others.

Bennett, J.

5th, 9th, 10th, 11th, 12th and 15th March, 1937.

COPYRIGHT—SONG—SOLD TO FILM COMPANY—AUTHORSHIP ATTRIBUTED TO THIRD PARTY—"SCREEN CREDIT"—IMPLIED TERM OF CONTRACT OF PURCHASE.

The author of a song lyric sold it to a film-producing company, which in producing a film gave "screen credit" for the authorship to a third party. In this action he claimed damages for alleged infringement of copyright. The company contended that the payment made to him had been in full satisfaction of any remuneration to which he might have been entitled.

BENNETT, J., gave judgment for the plaintiff, and said that the plaintiff contended that he authorised the use of his material conditionally on the company not saying that someone else was the author and that this was an implied term of their oral contract. This argument was right. If when the contract was made it had occurred to the parties to state what was to be done with regard to attributing the authorship of the song to anyone, it could not be that they would have agreed that the company might attribute it to a third party. It was not, perhaps, agreed that "screen credit" should be given to the plaintiff, but it should not be given to anyone else. His lordship referred to *Dahl* v. *Nelson Donkin and Co.*, 6 App. Cas., at p. 59, and said that it was a condition precedent to the company's right to use the plaintiff's work that they should not give "screen credit" to anyone else. In doing so they infringed his copyright.

COUNSEL: *Roxburgh*, K.C., and *Solley*; *David Jenkins*; *K. Shelley*; *J. Bowyer*.

SOLICITORS: *Matthew Trackman & Co.*; *Maxwell, Batley & Co.*; *Gery & Brooks*; *S. Myers & Son.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division

Simpson *v.* Simpson (Application by the King's Proctor for Directions).

Sir Boyd Merriman, P. 19th March, 1937.

DIVORCE—PRACTICE—VENUE—TRIAL AT ASSIZES—AFFIDAVIT AS TO VENUE—UNDERTAKING BY PETITIONER TO PAY EXTRA COSTS—SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. 5, c. 49), s. 70—AUTUMN CIRCUIT (MATRIMONIAL CAUSES) ORDER, 1928.

This was an application for directions by the King's Proctor in connection with an intervention by a member of the public in an undefended suit for dissolution in which the wife petitioner had been granted a decree *nisi*. The trial took place at Ipswich in October last.

The President, in giving his decision disposing of the intervention, *inter alia* reviewed the practice with regard to ordering the trial of matrimonial causes at assizes.

Sir BOYD MERRIMAN, P., said that some confusion appeared to exist as regarded the legal position on the general question of the right to have a case tried at an assize town as distinct from London. By the Administration of Justice Act, 1920, and the Statutory Order made thereunder in 1922, any undefended matrimonial cause might be tried at any of the assize towns prescribed for the trial of such a case. It did not rest entirely with the petitioner. By the Rules in all matrimonial causes—other than poor persons suits proceeding in a district registry—the petitioner, when applying for the registrar's certificate on setting down for trial, had to specify whether trial was desired in London or at one of the prescribed assize towns. The place of hearing had to be determined by a registrar of the principal registry on a consideration of the petition and of any information in relation to the cause which he might receive. It was the practice to require an affidavit stating the town at which the hearing was desired, and the number and residential locality of the witnesses, in order that the place of trial might be determined on due consideration of convenience and expense. In the present case the petition showed a London residence, but in the affidavit it was stated that "the petitioner is at present abroad, but at the hearing of this suit will be residing at Beach House, Undercliff Road, Felixstowe." The affidavit further showed that all the witnesses resided at Bray-on-Thames, Berkshire. It might not be regarded as surprising in the circumstances of the present case that a temporary residence in Suffolk had attracted some suspicion, and it was not difficult to imagine circumstances in which such an affidavit might be evidence of a collusive arrangement. But it was only fair to say, having regard to the congested state of the list in the division, the anxiety of the petitioner, without any ulterior motive whatever, to obtain an order for trial at assizes, where hearings can often be obtained within a few weeks of setting down, was understandable. The present case had disclosed a faulty practice in the registry, which it was hoped had now been corrected. No blame in respect of it could attach to the petitioner or her advisers. With the affidavit was an undertaking by the solicitors to pay any extra costs incurred by reason of the trial being held

at Ipswich. He (his lordship) had no doubt whatever that that was the decisive factor in the ordering of the venue in the present case. It was right and proper that if for some valid reason a hearing was desired at a place other than that which would appear to be the most convenient and least expensive, the petitioner should undertake to pay the extra costs. But it was quite another thing to treat, as it appeared to have been the practice to do, the giving of such an undertaking as a sufficient reason of itself for ordering the hearing at a place other than that which was indicated by the affidavit. Instructions had been given that that practice should cease, and that in any doubtful case the matter should be referred for the personal decision of a registrar.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.) and *Clifford Mortimer*, for the King's Proctor; *Norman Birkett*, K.C., and *Walter Frampton*, for the petitioner; *John Foster* held a watching brief.

SOLICITORS: *The King's Proctor; Theodore Goddard & Co.; Last, Riches & Fitton.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Obituary.

DR. R. L. GUTHRIE.

Dr. Robert Lyall Guthrie, Barrister-at-Law, coroner for the Eastern District of London, died at his home at Wimbledon on Tuesday, 13th April, at the age of sixty-nine. Dr. Guthrie was called to the Bar by the Middle Temple in 1899. He was deputy coroner for North-East London from 1903 to 1914, and in 1916 he took charge of the Fulham Military Hospital. He was appointed coroner for East London in 1920.

MR. A. C. LANGHAM.

Mr. Arthur Cuthbert Langham, solicitor, senior partner in the firm of Messrs. Langhams, of Bartlett's Buildings, E.C., and also of Sutton, Surrey, died at a nursing home on Friday, 9th April, at the age of seventy-four. Mr. Langham was admitted a solicitor in 1884.

MR. T. McKENNA.

Mr. Theodore McKenna, retired solicitor, formerly a partner in the firm of Messrs. McKenna & Co., of Basinghall Street, E.C., and Hanover Square, W., died at his home in London on Saturday, 10th April, in his eighty-fourth year. Mr. McKenna, who was admitted a solicitor in 1882, was chairman of Hayes Cocoa Company Ltd., and a director of the Goldsmiths and Silversmiths Company Ltd., and Nestle's Milk Products, Ltd. He became chairman of the Decimal Association in 1917, and he was a member of the Royal Commission on Decimal Coinage that was set up in 1920.

Parliamentary News.

Progress of Bills.

House of Lords.

Agricultural Wages (Regulation) (Scotland) Bill.
Read Third Time. [8th April.
Army and Air Force (Annual) Bill.
Read First Time. [14th April.
Barking Corporation Bill.
Read First Time. [14th April.
Cardiff Extension Bill.
Read First Time. [14th April.
Coal Mines (Employment of Boys) Bill.
Read First Time. [14th April.
County Councils Association (Expenses) Bill.
Read First Time. [14th April.
Education (Deaf Children) Bill [formerly Deaf Children (School Attendance) Bill].
Amendments reported. [8th April.
General Cemetery Bill.
Read Second Time. [14th April.
Grimsby Corporation (Grimsby and District Water, etc.) Bill.
Read Second Time. [14th April.
Hydrogen Cyanide (Fumigation) Bill.
Read Second Time. [14th April.
Kingston-upon-Hull Provisional Order Bill.
Read Second Time. [14th April.
London and North-Eastern Railway Bill.
Read First Time. [14th April.
London Midland and Scottish Railway Bill.
Read First Time. [14th April.
North Devon Electric Power Bill.
Second Reading negatived. [14th April.
North Devon Water Bill.
Second Reading negatived. [14th April.
North Metropolitan Electric Power Supply Bill.
Read Second Time. [14th April.
Sheep Stocks Valuation (Scotland) Bill.
Read First Time. [14th April.
Sheffield Corporation Bill.
Read First Time. [14th April.
Southern Railway Bill.
Read First Time. [14th April.
Wandsworth and District Gas Bill.
Read First Time. [14th April.
West Ham Corporation Bill.
Read First Time. [14th April.

House of Commons.

Agricultural Wages (Regulation) (Scotland) Bill.
Read First Time. [12th April.
Army and Air Force (Annual) Bill.
Read Third Time. [13th April.
Barking Corporation Bill.
Read Third Time. [9th April.
Barnsley Corporation Bill.
Read Second Time. [13th April.
Burgess Hill Water Bill.
Read Second Time. [13th April.
Cardiff Extension Bill.
Read Third Time. [9th April.
Cinematograph Films (Animals) Bill.
Read Second Time. [9th April.
Coal Mines (Employment of Boys) Bill.
Read Third Time. [9th April.
County Councils Association Expenses (Amendment) Bill.
Read Third Time. [13th April.
Inheritance (Family Provision) Bill.
Reported, with Amendments. [8th April.
Livestock Industry Bill.
Reported, with Amendments. [13th April.
Local Authorities (Hours of Employment in connection with Hospitals and Institutions) Bill.
Read First Time. [14th April.
London and North Eastern Railway Bill.
Read Third Time. [12th April.
London Midland and Scottish Railway Bill.
Read Third Time. [12th April.
Magdalen Hospital Bill.
Read First Time. [14th April.
Mansfield District Traction Bill.
Read Second Time. [13th April.
Marriages Provisional Orders Bill.
Read First Time. [8th April.
Methylated Spirits (Scotland) Bill.
Reported, with Amendments. [13th April.
Ministers of the Crown Bill.
Read Second Time. [12th April.
Poor's Allotments in Walton-upon-Thames Bill.
Read First Time. [14th April.
Public Health (Drainage of Trade Premises) Bill.
Read First Time. [8th April.
Religious Prosecutions (Abolition) Bill.
Read First Time. [12th April.
Sheep Stocks Valuation (Scotland) Bill.
Read Third Time. [9th April.
Sheffield Corporation Bill.
Read Third Time. [9th April.
Southern Railway Bill.
Read Third Time. [12th April.
Wandsworth and District Gas Bill.
Read Third Time. [9th April.
West Ham Corporation Bill.
Read Third Time. [9th April.
Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Bill.
Read Second Time. [8th April.

Questions to Ministers.

MEDICAL JURISPRUDENCE.

Captain ELLISTON asked the Home Secretary whether, in accordance with the recommendations of the advisory committee on the scientific investigation of crime, it is proposed to establish a medico-legal institute for pathological research and as a training centre for experts in medical jurisprudence.

Sir JOHN SIMON: The committee's report is primarily concerned with measures for improving medical education in certain directions; while I am in sympathy with their recommendations, they fall also within the province of the Minister of Health, with whom I am in consultation on the matter. My hon. and gallant Friend will, of course, appreciate that the committee's proposals would involve a substantial charge upon the Exchequer. [8th April.

RENT RESTRICTIONS ACTS.

Mr. PARKER asked the Minister of Health whether, in view of the continued housing shortage and the anxiety of numerous tenants of small houses, particularly in the neighbourhood of London, he will make a statement with regard to the intentions of His Majesty's Government to modify the existing law on the expiration of the Rent Restrictions Acts at present in force.

Mr. R. S. HUDSON: As my right hon. Friend has already announced, it is the Government's intention to set up forthwith a Departmental Committee to inquire into the operation of the Rent Restrictions Acts. [12th April.

TOWN AND COUNTRY PLANNING ACT, 1932 (APPEALS).

Miss CAZALET asked the Minister of Health how many appeals he has received from local authorities in connection with the erection of new dwelling-houses, and how many he has upheld.

THE PARLIAMENTARY SECRETARY TO THE MINISTRY OF HEALTH (Mr. R. S. Hudson): I understand that my hon. Friend wishes to know the number of appeals made under the Town and Country Planning Act, 1932, against the refusal of local authorities to permit development. The total number of appeals during the years 1933 to 1936 was 2,087. In 606 of these the local authority was upheld, and in 346 the appellant was successful. The remainder were either withdrawn or settled by agreement. [14th April.

Rules and Orders.

THE WHITSUN VACATION (1937) ORDER, 1937.

At the Court at Buckingham Palace, the 18th day of March, 1937.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by section 53 of the Supreme Court of Judicature (Consolidation) Act, 1925,* it is enacted that His Majesty may from time to time by Order in Council on a report or recommendation made, with the concurrence of the Lord Chancellor, by the Council of Judges of the Supreme Court assembled in pursuance of the provisions of Part X of that Act make, revoke or modify Orders regulating the Vacations to be observed by the High Court and the Court of Appeal and in the offices of the said Courts respectively:

And whereas a Council of Judges of the Supreme Court assembled in pursuance of the said provisions at the House of Lords on Tuesday, the 2nd day of March, 1937, recommended that the Whitsun Vacation for the year 1937 should be altered so that the Easter Sittings of 1937 should end on Tuesday, the 11th day of May, and the Trinity Sittings of 1937 should commence on Monday, the 24th day of May:

And whereas the Lord Chancellor concurs in that recommendation:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. The Whitsun Vacation shall in the year 1937 commence on the 12th day of May and terminate on the 23rd day of May.

2. This Order may be cited as the Whitsun Vacation (1937) Order, 1937.

M. P. A. Hankey.

* 15 & 16 Geo. 5. c. 49.

The Law Society.

INTERMEDIATE EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 10th and 11th March, 1937. A Candidate is not obliged to take both parts of the Examination at the same time.

The names of the Solicitors with whom the Candidates placed in the First Class are serving under Articles of Clerkship are printed in parentheses.

FIRST CLASS.

Kenneth Arthur Downs (Mr. Frederick Eustace, of London and Hull); Frederick Ernest Arthur Kidwell (Mr. Walter Frederick Watts, of the firm of Messrs. Rowe, Watts & Wood, of Ilfracombe); Clive Patrick Chalmers McDonald (Mr. Thomas Melhuish Pulman, of the firm of Messrs. Dodson and Pulman, of Taunton); Duncan Gerald John Millington (Mr. Roderick Henry Wanklyn, of London); Frank Raymond Morris, B.A. Oxon (Mr. William Charles Coleman Gell, M.A., LL.B., of the firm of Messrs. Johnson & Co., of Birmingham); Peter Stracey (Mr. John James Sutherland, of the firm of Messrs. J. J. Sutherland & Palframan, of Newcastle-upon-Tyne).

PASSED.

Malcolm Frank Westall Anderton, William Harbutt Chatterton Bell, James Albert Blair, Richard Henry French Blake, B.A. Oxon, Herbert Chadwick Coucill, Joseph Davies, Winifred Mary Dawe, Geoffrey Henry Dawson, Michael Geoffrey de Winton, Francis Harrington Edwards, Graeme Bell Finlay, Norman Anderson Fisker, Joseph Allan Galloway, Vivian Rodney Goodridge, John Archibald Kenneth Grahame, B.A. Oxon, Elvet Arwyn Griffiths, Peter John Griffiths, Mathew Joseph Hovey Hale, Lloyd Howarth Hayes, Thomas Derek Hayes, Alfred Hylton, Wilfred Ince, John Tegid Jones, Seymour John Ledbury, John Robert Mather, Robert Howard Tidswell Maughan, Robert Vincent Paul Ollard, Frederick Openshaw, Frederick Alan Porter-Smith, Harold Bruce Reynish, Geoffrey Ashton Roberts, Donald Rawdon Rooke, Hugh Capel Rutherfurd, Rowland Scoby-Smith, Richard Malcolm Scott, George David Seymour, Rosalie Doris Silley, Carlo William Couzens Smith, Peter Geoffrey Smith, Robert Scothern Urquhart, David George Walters, Harry Wells, Roy Seely Whitby.

The following Candidates have passed the Legal Portion only:—

Frederick Charles Adams, Robert Vincent Alfred Allbright, Cyril Anekstein, Thomas Bernard Atkinson, Arthur Philip Badger, Robert Thomas Keyston Baillie, Edward George Hedges Barford, David Gordon Barnett, Warwick Hilson Beaver, Robert Scott Beedell, Harold Arthur Bell, Wilfrid Lambert Blackbourn, Louis Michael Blackmore, Richard Rodney Gardner Blackmore, Walter Bluhm, Giles Dumville Botterell, John Paterson Brodie, Philip David Brown, Mortimer Glynne Burnand, B.A. Cantab., Robert James Glover Burtinshaw, Edgar Walter John Cambridge, Ian Edmund Cameron, William Francis John Church, Isobel Jocelyn Elliston Clifton, Gerald Haines Neil Cohen, Martin Kynoch Collard, Stanley William Collett, Howard Cragg, Kenneth Arnold Gibbs Crawley, Roy Stevens Cubitt, Arthur Leonard Culey, Leonard Cecil Dale, Basil Michael Davies, Charles Thomas William Dawkins, William Trevor Day, Harry Hardacre Dickinson, Ernest Doughty, Brian Courtenay Doyle, Lionel Murdoch Patrick Duncan, Frederick Cecil Jelleyman Elias, Dennis Samuel Ellis, Frank Stansfield Ellis, Philip England, Raymond King Field, Raphael Fine, Amador John Gabriel Hussey Fonseca, Harold Shipley Garner, William Stephen Gilbart, Peter Noel Giles, Laurence Eric Goodwin, B.A. Oxon, David Henry Graham, B.A. Oxon, John Messent Grover, Alan Haldenby, Harold Henry Armstrong Harrison, Richard Harrison, B.A. Cantab., Antony Garrett Hayes, John Stanley Heath, Richard Herbert, Alfred Ernest Herns, Hugh Geoffrey Hickman, Thomas Hidderley, Norman John Highwood, Albert Walter Hopkins, William Windsor Houston, Cecil Howett, Tristram Dodd Humble, Clifford Barnett Hutchings, Wilfrid James Hutton, Herbert Roy Ive, B.A. Cantab., Richard Edward Jackson, Aubrey Graham Wallen James, John Frederick Jobson, Harry Hayes Johnson, Hugh Philip Hewitt Johnson, B.A. Oxon, Stephen George Jones, Graeme Ifor Kemp, Edmond Roy Lawrence, M.A. Oxon, Howard de Mussenden Leathes, George Humphrey Lillies, Michael Forbes Loader, Richard Alfred Cresswell Loader, Arthur John Gow Logan, Lionel Geoffrey Maddison, Edward Mason, Peter Servington Maynard, Gordon Allestree Moult, Thomas Arnold Mower, Ivor Myers, Leslie Baron Newling, Mark Beddall Newman, Samuel Derek Oates, Harry Offenbach, John Geoffrey Ogden, Peter Atkinson Ord, Daniel Orme, B.A. Cantab., Terence O'Sullivan, Eric Parkington, Derrick Ernest Lane Parsons, Trevor Stanley Passmore,

James Wylie Patterson, Richard William Stanton Pegge' Geoffrey Charles Geary Pepper, Derek Lewé Loynston Pickard, William Humphrey Pickstone, Anthony Pilcher, Colin Maxwell Possart, Edwin Keith Richmond, John Marsack Rix, Maurice Edwin Rooke, Selwyn Samuel, Henry Douglas Keith Scott, Richard Henry Carilef Seymour, Hugh MacLeod Sheane, Dennis Russell Simm, Arthur Gerald Skett, Ronald Desmond Crawford Slade, Harry Noel Smith, B.A. Oxon, John Temple Smith, Edmund Smithson, Denys Snow, John Emery Somerville, Alfred Kenneth Steel, Hugh Ivor Steven, Edward John Steward, Robert Telfer Stotesbury, John Norman Sutton, Keith Stewart Paul Swayne, Richard Norris Symonds, James Kenneth Tee, Bastian Maitland Thompson, William Guy Toone, John Heli Tratt, Robert John Ashworth Turner, Jack Harvey Vallis, Christopher David Vowles, Charles Denis Walker, James Donald Walker, Sidney Harold Warnes, Gordon Roy Webb, John Montague Weiss, Stephen Valentine Bankes Wenham, Gervase John Whale, John Whatley, Lionel Alfred White, John Whitton, Philip Charles Livesey Wicks, Alfred Francis Wilkinson, Ifor Bryan Williams, John Hugh David Williams, Louis Anthony Wolfe, Thomas Barratt Woolliscroft, William Prowse Worden, Geoffrey Falcon Wray, Francis William Wright, Rex Wyeth, George Yates, John Maurice Macfarlane Yeo.

No. of Candidates, 378. Passed, 206.

The following candidates have passed the Trust Accounts and Book-keeping portion only :—

John Roberts Abbott, Patrick Albert Leonard Allen, Eric Douglas Almond, Harold Joffre Amiel, LL.B. London, Mavis Margaret Janette Angel, John Annan, B.A. Cantab., John Trevor Middleton Appleby, Jerome Marcus Ashby, B.A. Cantab., Robert Gowan Balkwill, Kenneth Bradfield Barber, Outram David Guy Barr, Jack Barstow, John Reginald Barton, Gerald Victor Morrey Baxter, Thomas Beaumont, B.A. Cantab., Brian Gurney Benham, John Roy Rudge Benton, B.A. Oxon, Keith Calvert Bibby-Cheshire, B.A., LL.B. Cantab., Henry Langton Birch, B.A. Oxon, Carlos Leonard Blackwell, Douglas Walter Blackwell, Alfred Lapthorn Blake, Richard Walter Blott, George Henry Boatte, William Henry Booth, Raymond Borrows, John Oliver Bostock, B.A. Oxon, Kenneth Taylor Braine-Hartnell, Thomas Briggs, LL.B. Leeds, Frederick Thomas Brockes, LL.M. London, Kenneth Broughton, Allan Deans Brown, Cecil William Jessop Brown, Thomas Alan Nicholson Bruce, Joseph Anthony Lionel Brutton, B.A. Cantab., Charles Mark Patrick Burgess, Patrick Aylmer Burlton, John Harold Burn, John Harry Arthur Julius Adelmare Cæsar, Edna Alice Cann, Kenneth Haygarth Capsey, Peter Alfred Ernest Carey, John Coplestone Carter, B.A., LL.B. Cantab., Stanley Cave, David Martin Charles-Jones, Michael Carsey Chittock, Lionel Francis Church, Robert Geoffrey Church, Eric Sidney Claff, Philip Edwin Vernon Clark, William Reginald Clarke, Albert Ernest Clutterbuck, Massimino Biagio Ronaldo Coia, Alan Raymond Collen, William Dennis Conolly, B.A. Cantab., John Harold Cooper, Percy Maurice Cooper, Raymond St. Clair Cooper, Nigel Henry Hamilton Cordwent, Albert Edward Cox, Richard Seymour Cox, Geoffrey Stuart Craik, LL.B. Liverpool, Francis Henry Gerald Craze, Martin Anthony Engleheart Cresswell, Leslie Gordon Cullen, Piers William Edward Currie, B.A. Oxon, Patrick Cussen, B.A. Oxon, Lester Davidson, LL.B. Liverpool, David Herbert Mervyn Davies, Trevor Davies, Eric Clark Davis, B.A. Cantab., Philip Meyer Davis, Oswald Buccle Deakin, B.A. Oxon, Salvian Clarence Sylvester de Wolfe, Arthur Ernest Dobbs, LL.B. Birmingham, Leonard Hindle Dodd, David William Donaldson, B.A. Cantab., Henry John Dowding, Logan Andrew Edgar, Philip Noel Edgecombe, B.A. Oxon, Bryan Arthur Edwards, B.A. Oxon, Michael Bruce Elliott, Frank William Elworthy, B.A., LL.B. Cantab., Jack Eva, B.A. Cantab., Evan Glyn Evans, John Raymond Fearon, B.A. Cantab., John Haigh Fielden, Romy Fink, LL.B. London, Samuel Ross Finn, B.A. Oxon, Henry Firth, LL.B. Leeds, John Lawrence Ralph Fort, Evan Mervyn Francis, Otto Emil Frankel, LL.B. London, John Stanley Duncombe Frith, Noel Earle Gabriel, B.A. Oxon, Douglas Frank Gernat, Rhuddlan Sydney Gething, William George Girling, Rodney Wyman Gold, B.A. Cantab., James Gifford Gordon, John Pearce Gould, B.A. Oxon, Donald William Gravett, Anthony Green, Richard Herbert Greener, B.A. Cantab., Ashley Martin Greenwood, B.A. Cantab., Emlyn Oliver Gribble, Charles Ellis Griffith, LL.B. London, Vernon Howard Gwyther, Arthur Geoffrey Theodore Hadley, Esther Eunson Hall, B.A. Durham, John Hall, Ralegh Orme Hancock, Donald Sidney Harding, LL.B. London, Edward John Nigel Harris, B.A. Cantab., Dennis Parker Harrison, Anthony Bedford Harvie, John Shand Haselhurst, Norman Frank Proctor Hatch, Thomas Francis Hegarty, LL.B. Liverpool, Cecil Thackeray Hodgson, Maurice Edmund Holderness, Brian Alister Hollick, John Cecil Hope, B.A. Oxon, Garth Hopkins, Leonard Walter Hopkins, Peter Stamford Horden, Richard Henry Howard, B.A. Cantab. John Derek Hoyle, James Leslie Hughes, Michael Duncan Hutchison, B.A. Oxon, Mervyn Arthur Jermyn Hynes, B.A. Cantab., Vernon Willan Jackson, John Hele Johnson, B.A. Oxon, Norris Richard Thomas Johnson, Herbert Vincent Jones, John Eryl Owen Jones, B.A. Cantab., LL.B. Wales, John Leslie Jones, Keith Gethen Jones, William Francis Jones, Kenneth Joslin, Jack Lewis Judd, Leonard Kasler, Timothy Bingham Dale Kendall, B.A. Cantab., John Kent, Donald Arthur Kershaw, Derek Alexander Scott Kilvert, Beatrice Judith Landau, Gordon Thomas Stafford Lane, John Clay Lavery, Alan Mason Layland, Rudolf Hermann Albrecht Lerse, LL.B. London, Dr. Jur. Tuebingen, Geoffrey Alfred Letts, Arnold Abraham Lever, John Raymond Little, B.A. Cantab., Ronald John Lloyd, LL.B. Manchester, Bernald Henry Lock, David Gordon Longden, B.A. Cantab., Hilarie Lovelace, B.A. Cantab., Derek Owen Lucas, Eric McCreath, B.A. Cantab., Alan Malcolm Bell Macdonald, B.A. Cantab., Arthur Edward McKenna, Angus Ferguson MacLeod, M.A. Glasgow, Beatrice Mabel McLoughlin, Patrick Cæsar de Mérindol Malan, Reginald Nichols Marcy, Bruce William Francis Marfell, LL.B. London, Emmanuel Marks, John Cole Marshall, Albert William Martin, Byam Morgan Mathias-Thomas, Edwin James Thomas Matthews, Kenneth Bruce John Meaby, B.A. Cantab., John Murray Melville, Geoffrey Talton Mepham, Harold Ernest Miles, Charles William Mole, John Plews Moorley, B.A., LL.B. Cantab., Colin Harry Morgan, B.A. London, David Dudley Morgan, B.A. Cantab., William Gwynn Morgan, LL.B. Wales, John Morris, LL.B. London, Stuart Protheroe Morris, John Letten Mountain, B.A. Cantab., John Denis Murray, LL.B. Manchester, Hugh Cowan Neilson, B.A. Cantab., John Horace New, Edwin Norman James Nias, Gervase Henry Nicholls, Richard Hornby Nicholson, LL.B. Liverpool, George Norton, LL.B. London, James Bernard O'Shea, LL.B. London, Hugh Wynn Owen, LL.B. Wales, William Geoffrey Palmer, LL.B. Birmingham, Norman William Parris, Brian William Dudley Paul, B.A., LL.B. Cantab., Roger Lewin Payne, B.A. Cantab., Thomas John Pert, Geoffrey Horace Piddock, B.A. Oxon, Cornelius Prichard, B.A. Wales, Henry Montague Prichard, M.A. Oxon, David Kirkpatrick Prior, B.A. Cantab., Clive Hardinge Pritchard, B.A. Oxon, Joseph William Hartley Pritchard, Ivor Evans Pugh, Geoffrey Hiram Standeford Pullen, John Henry Muers Raby, B.A. Cantab., John Percival Raynar, B.A. Cantab., John Morley Reay-Smith, B.A. Oxon, James Wilson Reed, Frank Rhodes, Thomas Rigby, Robert Humphreys Roberts, Archibald Woodhouse Rodger, Frederick Harrod Rodgers, LL.B. Liverpool, Robert Kelsey Roe, Thomas Chambers Windsor Roe, Robert Alexander Rogers, LL.B. London, John Christopher Rowe, B.A. Oxon, Gertrude Joyce Rugg-Gunn, B.A. Cantab., Harold Leslie Sagar, Reginald Myer Salberg, B.A. Oxon, William Ivor Sanday, B.A. Oxon, Frederick Amberson Holl Scovell, B.A. Cantab., Anthony Joseph Scruby, Geoffrey Hurst Serres, David Charles Lennard Shepherd, LL.B. Birmingham, Sidney Noel Shepherdson, Harold Dunstall Simnett, B.A. Oxon, Roger Simon, B.A. Cantab., William Patrick Denny Skillington, B.A. Oxon, George Derek Rayner Slade, B.A. Oxon, Ian Archibald Slater, LL.B. Birmingham, Tristram Augustine Sleeman, B.A. Oxon, Allan Dorset Smith, LL.B. London, Charles Neville Smith, Sydney Smith, John Snaith, Gilbert Statter Spragge, Ernest Henry Stevens, Hugh Richard Stirling, Cyril Gordon Stow, B.A. Oxon, Gershon Gerald Strovitch, LL.B. Liverpool, Hubert Murray Sturges, Thomas Peter Warcup Tacon, Brian Edward Lyon Taylor, B.A. Cantab., Michael Henry Taylor, John Lowell Tetlow, Charles Richard Thomas, Frank Tenterden Thomas, B.A. Cantab., Henry Stelfox Thomason, LL.B. Manchester, Edward Keith Thompson, Stewart Mackenzie Cook Thomson, Richard Langstone Thorp, Denis Peter Tomlin, Saul Topperman, Harold Travers, Francis Charles Sackville Tufton, B.A. Oxon, Kenneth Bryan Turner, John Antony Varley, David Michael Hastings Vulliamy, B.A. Oxon, Paul Denys Campbell Wadsley, Norman Stanley Wagstaff, Billy Dearden Walker, Leonard Paul Wallen, LL.B. London, Hugh Arthur James Walton, Roger Claud Vaughan Waters, Eric Ronald White, B.A. Cantab., Louis Albert White, William Stanley White, Eynon Rhys Williams, Laura Edith Williams, LL.B. Wales, Owen Emrys Williams, LL.B. Manchester, Thomas John Williams, B.A Oxon, Christopher Henry Allen Wilson, B.A. Cantab., Robert Clayborn Wilson, Harold Brend Winterbotham, B.A. Cantab., Dennis Wisdom, LL.B. London, Wilfred Arthur Wise, Frank Eugène Wood, B.A. Cantab., Henry Derek Wood, LL.B. Manchester, John Thornicraft Woodgate, Kenneth Wormald, B.A. Oxon, Arthur Ferns Worthington, B.A. Oxon, Abraham Jacob Yaffe, LL.B. Liverpool, Edward Ivor Yale, B.A. Cantab., George Douglas Yandell, Peter Yates, LL.B. Manchester, Horst Eberhard Martin Leopold Zander, Dr. Jur. Heidelberg.

No. of candidates, 435 ; passed, 338.

Societies.

The Solicitors' Managing Clerks' Association.

SOME RECENT CASES IN THE LAW OF NEGLIGENCE.

LORD ATKIN took the chair at a lecture given in Gray's Inn Hall on the 19th March by Mr. Hector Hughes, K.C., on "Some recent cases in the Law of Negligence."

Mr. HUGHES said that he would divide the cases he had chosen into three classes, those dealing with (*a*) invitees, licensees, and trespassers, (*b*) negligent house building, arising mainly in developing building estates, and (*c*) measures of damages for personal injuries and death, particularly as affected by the Law Reform (Miscellaneous Provisions) Act, 1934. An invitee had been defined as a person who went to premises, not as a mere volunteer or licensee, or guest or servant or person whose employment was such that danger might be considered as bargained for, but upon business which concerned the occupier, and upon his invitation, express or implied. The invitee, using reasonable care for his own safety, was entitled to expect that the invitor should on his part use reasonable care to prevent damage from unusual danger of which he knew or ought to know. A licensee was one who had permission, express or implied, to do an act which without that permission would be unlawful. The licensee accepted this permission subject to its risks, for none of which, except a hidden peril or trap, was the licensor liable. A trespasser was a person who did an act without a shadow of right to do it. To him the person who or whose premises were the subject of the trespass owed no duty beyond refraining from any act which unnecessarily involved danger to the trespasser. Mr. Hughes cited six cases indicating where the line was drawn between these three classes of persons. In *Hillen & Pettigrew* v. *I.C.I. (Alkali), Ltd.* [1936] A.C. 65, the appellants were members of a stevedore's gang employed to load a steamship from the respondents' barge. When the work had reached a certain stage the crew of the barge replaced the hatch-covers unsupported by the fore-and-aft beam, the hatch-covers gave way, and the appellants fell into the hold and were injured. The men knew that it was dangerous and improper to load cargo off the hatch-covers. The House of Lords had held that the appellants had no cause of action against the respondents, because the crew of the barge had no authority to invite the appellants to use the hatch-covers for the purpose for which, or in the way in which, they were used. The appellants were therefore trespassers, and even if they were invitees they were guilty of contributory negligence. Lord Atkin had indicated during the hearing of this case the circumstances in which an invitee might become a trespasser when he said: "In my opinion this duty to an invitee only extends so long as and so far as the invitee is making what can reasonably be contemplated as an ordinary and reasonable use of the premises by the invitee for the purposes for which he has been invited. He is not invited to use any part of the premises for purposes which he knows are wrongfully dangerous and constitutes an improper use. As Scrutton, L.J., has pointedly said, 'When you invite a person into your house to use the staircase, you do not invite him to slide down the bannisters': *The Calgarth* [1927] P. 93, 110. So far as he sets foot on so much of the premises as lie outside the invitation or uses them for purposes which are alien to the invitation he is not an invitee but a trespasser, and his rights must be determined accordingly." *Weigall* v. *Westminster Hospital* (1936), 80 SOL. J. 146; *Morgan* v. *Incorporated Central Council of the Girls' Friendly Society* (1936), 80 SOL. J. 323; *Schlarb* v. *London & North Eastern Railway Co.* (1936), 80 SOL. J. 168; *Simmons* v. *The Mayor, etc., of the Borough of Huntingdon* (1936), 1 All E.R. 596; and *Shiffman* v. *The Grand Prior, etc., of St. John of Jerusalem* (1936), 80 SOL. J. 346, also define the characteristics of invitees, licensees, and trespassers.

The second part of the lecture dealt with the law relating to the sale of "jerry-built" houses to unsuspecting purchasers who thought that they were getting decently substantial dwelling-houses for the money they paid, hoped to pay, or undertook to owe to the building societies. Cases concerned with the rights and liabilities of purchasers and vendors had culminated in the much-cited judgment of Mr. Justice Atkinson in *Otto & Otto* v. *Bolton & Norris* [1936] 2 K.B. 46. The facts were simple and the claims sound both in contract and tort. Miss Otto bought a newly-built house from the defendants for occupation by herself and her mother. It was unfinished, and the defendants agreed to complete the house and decorations to her reasonable approval after completion of the purchase. Within eighteen months of occupation, the house became unfit for habitation, and Mrs. Otto was injured by the collapse of the ceiling in one of the bed-rooms. Miss Otto then sued the vendors, claiming damages for breach of warranty both express and implied, and the mother claimed damages for negligence based on an alleged duty to take care in the construction of the house to prevent its being dangerous, breach of which duty being the negligence complained of. The defence was a denial of the warranty, or that alternatively such warranty, if any, was confined to mere decorations, and did not extend to structure; that Miss Otto employed her own surveyor; and that the house was completed and passed for habitation by the surveyor to the local urban council. The defence to the claim of Mrs. Otto for negligence was that such a claim was not sustainable in law. Miss Otto's two claims had been upheld, but her mother's claim had failed. Mr. Justice Atkinson had had three questions of law to decide: whether the assurance given amounted to a warranty; what was the effect in law of such a warranty collateral to and forming part of the contract for sale; and whether Mrs. Otto was entitled to recover damages for negligence. The leading relevant case on the first question was *De Lassalle* v. *Guildford* [1901] 2 K.B. 215. Sir A. L. Smith, Master of the Rolls, had said: "To create a warranty no special form of words is necessary. It must be a collateral undertaking forming part of the contract by agreement of the parties express or implied, and must be given during the course of the dealing which leads to the bargain, and should then enter into the bargain as part of it." The court had therefore decided that the assurance given to Miss Otto was a warranty. In the case of *Miller* v. *Cannon Hill Estates Ltd.* [1931] 2 K.B. 113, which had been cited in argument on the second question, Mr. Justice Swift had held, following *Lawrence* v. *Cassel* [1930] 2 K.B. 83, that in a contract with builders for the purchase of a house there is an implied warranty by the vendors that the house shall be built in an efficient and workmanlike manner and of proper materials, and that it shall be fit for habitation. He had also held, following *De Lassalle* v. *Guildford, supra*, that a representation by builders in conversation with a prospective buyer that all houses on the estate were of the best material and workmanship might amount to a warranty collateral to a subsequent formal contract, for breach of which an action would lie. Following the findings of Mr. Justice Swift, Mr. Justice Atkinson had held that the warranty which was given to Miss Otto and broken was enforceable in law, and had awarded damages measured at the rent of alternative accomodation for the period which he thought reasonably necessary in the circumstances.

The third question was Mrs. Otto's claim in tort, that a dangerous house was equivalent to a dangerous article sold in circumstances which prevented the purchaser from discovering the defect by inspection; that the manufacturer of such an article was under a legal duty to take care that it was free from defect likely to injure health (*Donoghue* v. *Stevenson* [1932] A.C. 562 (the "Snail case")); that this duty existed in respect of a thing dangerous in itself but also dangerous owing to negligent construction, especially where the defect was hidden and unknown to the purchaser or occupier (*Grant* v. *Australian Knitting Mills* [1936] A.C. 85). Against Mrs. Otto it had been argued that the rule in *Donoghue* v. *Stevenson, supra*, applied not to houses or realty, but only to chattels in which the relations of the parties were "proximate," as Lord Atkin had said, and there was no opportunity for inspection by the purchaser, and that, in the absence of express contract, a vendor of a house was not liable to his purchaser for defects rendering it dangerous or unfit for occupation, even if he had constructed the defects himself or was aware of their existence. In deciding against Mrs. Otto's claim, four important authorities had been reviewed: *Collis* v. *Selden* (1868), L.R. 3 C.P. 495; *Cavalier* v. *Pope* [1906] A.C. 428; *Malone* v. *Laskey* [1907] 2 K.B. 141; and *Bottomley* v. *Bannister* [1932] 1 K.B. 458. Lord Justice Scrutton had said in his judgment in the fourth of these cases that it was well established English law that in the absence of express contract, a landlord of an unfurnished house was not liable to his tenant or a vendor of real estate to his purchaser for defects in the house or land rendering it dangerous or unfit for occupation, even if he had constructed the defects himself or was aware of their existence.

In *Rowley* v. *London & North Western Railway*, L.R. 8 Exchq., at p. 230, Mr. Justice Brett, later Lord Esher, had said that if juries gave damages in negligence cases fully equivalent to the pecuniary loss sustained, defendants would be ruined, and the defendants most liable to such actions would not be able to carry on their business upon the same terms to the public. A jury ought not to attempt to give damages to the full amount of a perfect compensation for the pecuniary injury, but should take a reasonable view of the case, and give what they considered in all circumstances a fair compensation. In *Flint* v. *Lovell* [1935] 1 K.B. 354, the Court of Appeal had held that in assessing damages the judges were entitled to take into consideration the fact that the plaintiff's expectation of life was shortened. In *Slater* v. *Spreag* [1936] 1 K.B. 83, no claim for shortened expectation

of life had been allowed by Mr. Justice MacKinnon, because the deceased had remained unconscious from the accident until death.

LORD ATKIN, in replying to a vote of thanks, said that Mr. Hughes had made no comments on the decisions which he had cited, and it would be interesting to hear his opinion on them. Lord Atkin did not want to express any opinion on these decisions himself, because he might, in another capacity, have to give a final decision in the House of Lords on one or other of the expectancy of life cases mentioned by Mr. Hughes. The scope of the duty to take care had undoubtedly been enlarged by the case of *Donoghue* v. *Stevenson*, *supra*, and traces of that snail's progress could be found in every country in the world where English law was of any importance. It was quite possible that the right view might be that the duty to take care applied to buildings as well as chattels. It was a little remarkable—it might be the law—that a builder who used rotten timbers in the construction of a school, with resulting injury to the children, was not liable, whereas there was a liability for negligence in the manufacture of drugs or chattels.

The Hardwicke Society.

A meeting of the Society was held on Friday, 9th April, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. H. F. R. Sturge moved: "That motorists should be allowed greater freedom." Mr. T. K. Wigan opposed. There also spoke: Mr. J. A. Grieves, Mr. Crispin, Mr. Hunt, Mr. Nissim, Mr. Picarda, Mr. Lewis F. Sturge (Hon. Secretary), Miss Hynes, Mr. Lyder, Mr. Llewellyn Thomas (Hon. Treasurer), and Mr. Willis. The Hon. Mover having replied, the house divided, and the motion was lost by four votes.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 12th April, at 8 p.m. Mr. E. D. Smith proposed the motion: "Frailty, thy name is woman." Miss B. Bicknill opposed. Messrs. Morgan, Pratt, Hill, Glower, Herbertson, Robinson, Holford, C. H. Pritchard, Sleeman (a visitor), Vine Hall, McQuown, Bull, Yates, Powell (a visitor), and Miss Pritchard (a visitor), also spoke and Mr. Smith replied. The motion was put to the house and lost by eight votes to thirteen. Attendance, twenty-nine, including nine visitors.

The Union Society of London.

(101ST YEAR.)

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 14th April, at 8,15 p.m., the President (Mr. S. R. Lewis) being in the chair. Mr. Melville Buckland proposed the motion: "That the existence of small states in Europe is a menace to peace." Mr. J. A. Grieves opposed, and Mr. Orme, Mr. Walter Stewart, Mr. Russell Clarke, Mr. Picarda, Mr. Bassett, Mr. Hubert Moses (Hon. Sec.), Mr. Fraser, and Mr. Wilson (visitor) also spoke. Mr. Buckland replied. Upon division the motion was lost by two votes.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held on the 6th April, at 60, Carey Street, W.C.2, with Mr. R. C. Nesbitt in the chair. The following Directors were present: Mr. F. L. Steward (Wolverhampton), Vice-Chairman, Mr. P. D. Botterell, C.B.E., Mr. G. C. Daw (Exeter), Mr. E. F. Dent, Mr. T. S. Curtis, Sir Norman Hill, Bart., Mr. G. Keith, Sir E. F. Knapp-Fisher, Mr. C. G. May, Mr. R. B. Pemberton, Mr. H. F. Plant, Mr. W. N. Riley (Brighton), Mr. A. W. Turnbull (Shrewsbury), and the Secretary. £1,741 was distributed in grants to necessitous cases and eighty-five new members admitted.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 13th April, 1937 (chairman, Mr. C. A. G. Simkins), the subject for debate was: "That corporal punishment not only constitutes a serious reflection upon our penal system, but serves no useful purpose and should be abolished." Mr. J. E. Terry opened in the affirmative and Mr. F. Whitworth opened in the negative. The following members also spoke: Messrs. H. J. Burke, L. E. Long, J. R. Campbell Carter, G. Roberts, C. F. J. Barron, R. D. C. Graham, W. Stabb and A. T. Wilson. The opener having replied, the motion was lost by six votes. There were twenty-eight members and three visitors present.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. GERALD ALFRED THESIGER be appointed Recorder of Rye, to succeed Mr. Eustace Fulton, who has been appointed Chairman of the County of London Sessions.

The Attorney-General has appointed Mr. G. OWEN GEORGE to the office of Prosecuting Counsel to the Post Office on the South Wales Circuit (excluding Chester) in succession to Mr. O. Temple Morris, K.C., M.P.

Mr. R. W. J. HILL, Deputy Town Clerk, Guildford, has been appointed to a similar post with the Ilford Borough Council. Mr. Hill was admitted a solicitor in 1930.

Mr. SYDNEY J. THORNE, Solicitor and Clerk to the Tonbridge U.D.C., has been appointed, in addition, Deputy County Coroner for West Kent. Mr. Thorne was admitted a solicitor in 1930.

Mr. A. C. CROASDELL, who was appointed last year as Assistant Solicitor to the Hayes and Harlington U.D.C., has now been appointed Solicitor to the Council and Deputy-Clerk. Mr. Croasdell was admitted a solicitor in 1932.

Wills and Bequests.

Mr. Hubert Henry Brown, solicitor, of Lichfield, left £16,045, with net personalty £12,611.

Mr. Arthur Howland Jackson, solicitor, of Ringwood, left £57,617, with net personalty £54,134.

Mr. John Verity Watson, retired solicitor, of Southport, left £14,458, with net personalty £13,739.

Mr. John Bristowe Wheat, solicitor, of Sheffield, left £14,569, with net personalty £14,284.

Mr. Henry Noble Mathews, solicitor, of Hindhead, left £28,209, with net personalty £19,557.

Mr. Thomas Cotching, solicitor, of Horsham, left £67,493, with net personalty £64,110.

Alderman Charles Gyningham Field, solicitor, of Reading, left £17,019, with net personalty £12,790.

Notes.

Colonel A. J. Hanslip Ward, D.L., M.B.E., who has been Town Clerk of Harwich for fifty years, has tendered his resignation. Colonel Ward was admitted a solicitor in 1882.

The Council of Legal Education have issued the rules for the Michaelmas Examination for the Bar to be held on 4th, 5th, 6th, 7th and 8th October, 1937, in Gray's Inn Hall.

The Home Secretary has appointed Countess Buxton, G.B.E., J.P., to be an additional member of the Committee, appointed on 25th January, to advise on questions relating to the administration of the probation system and the other social services of the courts.

The British group of former students of The Hague Academy of International Law held its first annual reunion dinner at the Holborn Restaurant on 8th April. The chair was taken by Sir Cecil Hurst, vice-president of the Permanent Court of International Justice.

The resignation of Mr. John Roskill, K.C., Judge of the Salford Hundred Court of Record, was announced in Manchester last Wednesday. Mr. Roskill was called to the Bar by the Inner Temple in 1888, and took silk in 1903. He was appointed Recorder of Burnley in 1907, and two years later he was appointed Judge of Salford Hundred Court of Record.

The Minister of Agriculture has appointed Sir William Graham-Harrison to be Chairman of the National Mark Committee in place of Sir John Eldon Bankes, who has resigned. The new chairman has been a member of the committee for the past two years, and the Minister has appointed Mr. H. J. Wallington, K.C., to fill the resulting vacancy.

The fourth of the Coronation Tours which have been arranged in aid of King Edward's Hospital Fund for London will take place on the 21st April at 2.30 p.m., when visits will be made to Kensington Palace and the Royal Geographical Society (Relics of Famous Explorers). This tour will be conducted by Mr. Walter G. Bell, F.S.A. Further information may be obtained from the Secretary, King Edward's Hospital Fund for London, 10, Old Jewry, E.C.2.

An ordinary meeting of the Medico-Legal Society will be held at Manson House, 26, Portland Place, W.1, on Thursday, 22nd April, at 8.30 p.m., when a paper will be read by G. Roche Lynch, O.B.E., M.B., B.S., D.P.H., F.I.C., and D. Harley, B.Sc., M.B., B.Ch., F.I.C., and D. Harcourt Kitchin, Esq., of Gray's Inn, Barrister-at-Law, on "The Medico-Legal Importance of the Blood Groups with special reference to Non-Paternity." Members may introduce guests to the meeting on production of the member's private card. Arrangements have now been made for the provision of light refreshments at the conclusion of each meeting.

As previously announced, the Christ Church Law Club is holding its second annual dinner on Monday, 31st May, at the Café Royal, London, W. The guests will include The Right Hon. Sir T. Inskip, C.B.E., K.C., M.P. (President), The Right Hon. Lord Atkin (Vice-President), The Right Hon. Lord Camrose, The Hon. Mr. Justice Farwell (Vice-President), The Hon. Mr. Justice Finlay (Vice-President), The Right Hon. Lord Justice Greene, M.C. (Vice-President), Sir Maurice Gwyer, K.C.B., K.C.S.I., K.C. (Vice-President) who will be the guest of honour in celebration of his recent appointment, The Right Hon. Sir D. Plunket-Barton, Bart., K.C. (Vice-President), The Very Rev. A. T. P. Williams, D.D. (Dean of Christ Church). Tickets and further particulars can be obtained from Mr. S. N. Grant-Bailey, 7, Fig Tree Court, Temple, E.C.4. Telephone Central 8589.

The following days and places have been fixed for holding the Summer Assizes on the Oxford, Western, and Midland Circuits:—OXFORD CIRCUIT.—SWIFT and DU PARCQ, JJ.—Thursday, 20th May, at Reading; Wednesday, 26th May, at Oxford; Tuesday, 1st June, at Worcester; Saturday, 5th June, at Gloucester; Saturday, 12th June, at Monmouth; Saturday, 19th June, at Hereford; Thursday, 24th June, at Shrewsbury; Thursday, 1st July, at Stafford. WESTERN CIRCUIT.—LAWRENCE, J.—Monday, 24th May, at Salisbury; Saturday, 29th May, at Dorchester; Saturday, 5th June, at Wells; Saturday, 12th June, at Bodmin. CHARLES and LAWRENCE, JJ.—Saturday, 19th June, at Exeter; Wednesday, 30th June, at Bristol; Saturday, 10th July, at Winchester. MIDLAND CIRCUIT.—SINGLETON, J.—Tuesday, 18th May, at Aylesbury; Friday, 21st May, at Bedford; Wednesday, 26th May, at Northampton; Tuesday, 1st June, at Leicester; Wednesday, 9th June, at Oakham; Thursday, 10th June, at Lincoln; Saturday, 19th June, at Nottingham; Tuesday, 29th June, at Derby. PORTER, J.—Tuesday, 6th July at Warwick. SWIFT and PORTER, JJ.— Monday, 12th July, at Birmingham.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP II. Mr. JUSTICE CLAUSON. Witness. Part II.	Mr. JUSTICE LUXMOORE. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
April 19	More	Jones	Jones	*Andrews
„ 20	Hicks Beach	Ritchie	Ritchie	*Jones
„ 21	Andrews	Blaker	Blaker	*Ritchie
„ 22	Jones	More	More	*Blaker
„ 23	Ritchie	Hicks Beach	Hicks Beach	*More
„ 24	Blaker	Andrews	Andrews	Hicks Beach

DATE.	GROUP II. Mr. JUSTICE FARWELL. Non-Witness.	Mr. JUSTICE BENNETT. Witness. Part I.	GROUP I. Mr. JUSTICE CROSSMAN. Witness. Part II.	Mr. JUSTICE SIMONDS. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
April 19	Ritchie	*Blaker	*More	Hicks Beach
„ 20	Blaker	*More	*Hicks Beach	Andrews
„ 21	More	*Hicks Beach	*Andrews	Jones
„ 22	Hicks Beach	Andrews	*Jones	Ritchie
„ 23	Andrews	Jones	*Ritchie	Blaker
„ 24	Jones	Ritchie	Blaker	More

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd April, 1937.

	Div. Months.	Middle Price 14 Apl. 1937.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	109½	3 13 1	3 6 10
Consols 2½%	JAJO	76½	3 5 4	—
War Loan 3½% 1952 or after	JD	103	3 8 0	3 5 2
Funding 4% Loan 1960-90	MN	110¾	3 12 3	3 6 6
Funding 3% Loan 1959-69	AO	96	3 2 6	3 4 0
Funding 2½% Loan 1952-57	JD	93½	2 18 10	3 3 11
Funding 2½% Loan 1956-61	AO	88½	2 16 6	3 3 10
Victory 4% Loan Av. life 22 years	MS	109½	3 13 1	3 7 8
Conversion 5% Loan 1944-64	MN	113½	4 8 3	2 14 7
Conversion 4½% Loan 1940-44	JJ	107½	4 3 9	1 18 1
Conversion 3½% Loan 1961 or after	AO	101½	3 8 10	3 7 10
Conversion 3% Loan 1948-53	MS	100½	2 19 6	2 18 4
Conversion 2½% Loan 1944-49	AO	97½	2 11 3	2 15 0
Local Loans 3% Stock 1912 or after	JAJO	88½	3 7 10	—
Bank Stock	AO	339	3 10 9	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	80	3 8 9	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	88½	3 7 10	—
India 4½% 1950-55	MN	111½	4 0 9	3 7 10
India 3½% 1931 or after	JAJO	88½	3 19 1	—
India 3% 1948 or after	JAJO	76	3 18 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	111	4 1 1	3 16 10
Sudan 4% 1974 Red. in part after 1950	MN	109xd	3 13 5	3 3 9
Tanganyika 4% Guaranteed 1951-71	FA	109	3 13 5	3 3 10
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	107	4 4 1	2 16 1
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	91	2 14 11	3 2 8
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 10 11
Australia (C'mm'nw'th) 3% 1955-58	AO	91	3 5 11	3 12 4
Canada 4% 1953-58	MS	108	3 14 1	3 6 11
*Natal 3% 1929-49	JJ	99	3 0 7	3 2 0
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
New Zealand 3% 1945	AO	96	3 2 6	3 11 9
Nigeria 4% 1963	AO	110	3 12 9	3 8 4
*Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	103	3 8 0	3 5 2
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	89	3 7 5	—
Croydon 3% 1940-60	AO	96½	3 2 2	3 4 4
Essex County 3½% 1952-72	JD	103½	3 7 8	3 4 4
Leeds 3% 1927 or after	JJ	86½	3 9 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	100	3 10 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	75½	3 6 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	85	3 10 7	—
Manchester 3% 1941 or after	FA	87	3 9 0	—
Metropolitan Consd. 2½% 1920-49	MJSD	95½	2 12 4	2 19 0
Metropolitan Water Board 3% "A" 1963-2003	AO	87	3 9 0	3 10 2
Do. do. 3% "B" 1934-2003	MS	89½	3 7 0	3 8 0
Do. do. 3% "E" 1953-73	JJ	96	3 2 6	3 3 9
Middlesex County Council 4% 1952-72	MN	108xd	3 14 1	3 6 11
* Do. do. 4½% 1950-70	MN	111xd	4 1 1	3 9 9
Nottingham 3% Irredeemable	MN	85½xd	3 10 2	—
Sheffield Corp. 3½% 1968	JJ	103½	3 7 8	3 6 4
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	106	3 15 6	—
Gt. Western Rly. 4½% Debenture	JJ	115½	3 17 11	—
Gt. Western Rly. 5% Debenture	JJ	127½	3 18 5	—
Gt. Western Rly. 5% Rent Charge	FA	125½	3 19 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	121½	4 2 4	—
Gt. Western Rly. 5% Preference	MA	113	4 8 6	—
Southern Rly. 4% Debenture	JJ	105½	3 15 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	109	3 13 5	3 9 2
Southern Rly. 5% Guaranteed	MA	121½	4 2 4	—
Southern Rly. 5% Preference	MA	111	4 10 1	—

*Not available to Trustees over par.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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Stock
37.

Approximate Yield with Redemption
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